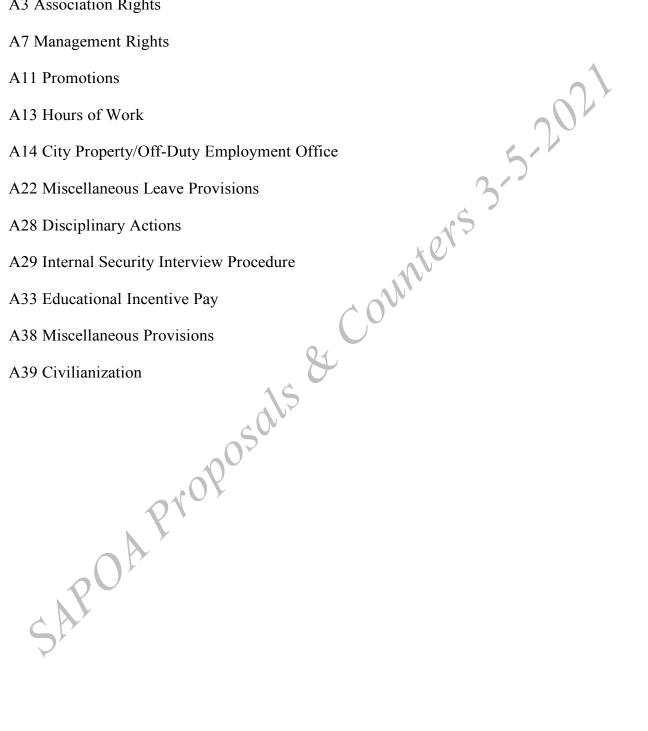
# SAPOA PROPOSALS. & COUNTERS MARCH 5, 2021

A3 Association Rights

A7 Management Rights



# ARTICLE 3 Association Rights

## Section 1. Recognition.

The City hereby recognizes the Association as the sole and exclusive collective bargaining agent for the unit consisting of all sworn Police Officers, except the Chief.

#### **Section 2.** Payroll Deductions.

- A. The City shall deduct monthly Association dues from each individual member who has voluntarily authorized Association dues deductions. The letter requesting Association dues deduction shall be signed by the President of the Association.
- B. The City shall deduct monthly CLEAT dues from each individual member who has voluntarily authorized CLEAT dues deductions. The letter requesting CLEAT dues deduction shall be signed by both the President of CLEAT and the President of the Association.
- C. The City shall deduct monthly POLPAC dues from each member who has voluntarily authorized POLPAC dues deductions. The letter signed by the President of the Association requesting POLPAC dues deductions shall declare that the request has been approved by a majority vote of the Board of Directors and of the membership of the Association.
- D. Any individual member of the bargaining unit wishing to voluntarily withdraw his authorization for Association, CLEAT, or POLPAC dues deductions and not in uniform, must identify himself and personally sign the appropriate form in the Police Department Accounting Office at Headquarters.
- E. On October 1st of each year the City shall deduct six (6) hours from each officer's credited vacation time and credit the time deducted to a pool for use by the Association. Any officer not desiring the deduction shall notify the Accounting Office in the same manner as in subsection D above during the month of September of each year for the following fiscal year. Requests for leave under this section shall be made in writing by the Association President to the Chief. The Association President shall annually submit a list of the names of ten (10) members who shall have the right to use Association Leave with a minimum notice of twenty-four (24) hours. This list of members eligible for expedited use of Association Leave may be amended no more than once in each calendar quarter. All others using Association Leave shall be required to submit the leave request no less than five (5) calendar days in advance of the anticipated date of leave. Such request will be granted, except in the case of emergencies or where the same would impair the operations of the Department or where the granting of the same would adversely affect the welfare of the citizens of San Antonio.
- F. The City shall notify the Association and/or CLEAT in writing of any member who revokes or adds his authorization for dues deduction including POLPAC within thirty (30) calendar days

from the revocation or addition of the deduction.

- G. The amount of dues or assessments shall be the amount set forth in the letter or request signed by the President of the Association and/or CLEAT.
- H. The City shall not be obligated to deduct dues or deduct any sum provided for herein until the respective organization provides a legal and binding letter from the President or legally authorized agent of the Association and/or CLEAT agreeing to indemnify, defend and hold the City harmless against any claims, demands, suits, or any other form of liability that shall arise out of or as a result of any action taken by the City for purposes of complying with the provisions of this Article.
- I. All amounts deducted pursuant to this Article shall be paid to the legally designated representative of the Association and/or CLEAT in accordance with the procedures established by the Finance Director.
- J. Whenever an Association member dies, and the City is notified as provided herein, the City will automatically deduct twice the amount of dues from each Association member's payroll during the month immediately following the Association member's death. In the case of multiple applicable deaths in a month the Association may have the double deductions spread over a period of months upon reasonable notice to the City. As with other deductions, said amount will be forwarded directly to the Association, provided, however that the Association will reimburse the amount of the increased deduction within fourteen (14) calendar days to any member who makes a written request for such reimbursement to the President of the Association. The Association will disburse the additional dues collected to the designated beneficiary or beneficiaries of the deceased member. Any member may designate or change beneficiaries as provided by policy or rule of the Association. Any Association member who requests reimbursement of dues collected from benefits after another member dies, and officers who are not Association members, shall not be eligible for the benefits provided in this Section. The Association shall be responsible to notify the City before the deduction of the double dues occurs.

#### Section 3. Time Off for Association Business.

- A. The Executive Board shall have the right to visit the premises of the Police Department for the purpose of administering this Agreement. Such visits shall be conducted in a manner so as not to interfere with the functions of the Department.
- B. The Association's negotiating team, not to exceed six (6) members, shall be permitted to meet with the Association President or to attend negotiating sessions with City representatives, where such sessions or meetings are scheduled during working hours, without loss of pay; or shall be given time off without loss of pay for the scheduled Dog Watch "C" shift immediately preceding such negotiating sessions.

The City agrees that the President of the Association will be placed on special assignment during the term of his presidency. The special assignment will give the Association President the latitude to deal with the duties of his presidency while retaining the privileges of his employment, while the Chief of Police retains the right to recall him to duty during an emergency or special event involving overriding need for the protection of the citizens of San Antonio.

For the purposes of accounting, the President, <u>Vice President and Treasurer</u> of the Association will be assigned to the Accounting Office. It will be the responsibility of the President of the Association to notify and submit proper paperwork to the Accounting Office accounting for all personal leave time to include but not limited to compensatory, vacation, holiday, bonus day, military leave, and sick time. <sup>1</sup>

The Chief of Police reserves his existing authority to revoke special assignment for the Association President during emergencies or when the welfare of the citizens of San Antonio is placed in jeopardy. The Association President, as part of his Association duties, reserves the right, as in the past, to mitigate grievances at all informal and formal levels in order to reduce the number of complaints and, in all cases, reserves the right to speak, visit with the men and women who are members of the Association, as well as to tour existing police facilities and to inspect equipment that will improve the quality of work life for the police officers of the City of San Antonio whom he represents. In addition, he will participate as the duly elected representative of those men and women of the Association in any discussion that may affect the quality of worklife, health, and well being of any Association member. It is understood that the President, Vice President and Treasurer of the Association shall suffer no loss of longevity, seniority, pension, days off, or any other benefits as a result of and during the term of such special assignment. When the term of the President, Vice President and Treasurer expires, the President, Vice President and Treasurer shall be eligible to return to their his previously assigned shift and duty assignment.

The leave for the Vice President and Treasurer shall be taken from Association Business Leave pool.

D. The City shall grant Association leave paid in accordance with Article 3, Section 2(E) to a maximum of ten (10) Officers at any given time at the request of the Association President. Such request will be granted, except in the case of emergencies or where the same would impair the operations of the Department or where the granting of the same would adversely affect the welfare of the citizens of San Antonio. An additional five (5) members shall be eligible for Association Business Leave for conferences, occasions, events or meetings when the need for such additional personnel is legitimate, no more than five (5) times per year. It is understood and agreed that a request under this exception shall be subject to modification or denial by the Chief where a reasonable basis exists, taking into account the staffing needs of the Department.

#### Section 4. Bulletin Boards.

A. The Association may maintain one (1) bulletin board at each of the decentralized stations or other police facilities and two (2) bulletin boards at the headquarters building. Bulletin boards may be located at the assembly room and the lobby of the headquarters building and in similar conspicuous locations at the other police stations and/or facilities. The Association may utilize

<sup>&</sup>lt;sup>1</sup> A3, Sec. 3 Time Off for Association Business – SAPOA Counter-proposal 3-5-2021

Department e-mail and video technology to disseminate bulletin board information subject to the following terms. All e-mail transmissions shall have prior approval of the Chief. The use of video equipment is limited to the playing of Association provided videotapes in compliance with Section 6 of this Article. The Association representative who accompanies the video is responsible for its content complying with Section 6. In the event no Association representative is present, the Association President is responsible. The President of the Association shall have off-site access to the City mainframe computer and SAPD intranet.

- B. The bulletin boards, e-mail, and video presentations shall be used only for the following notices:
  - (1) Recreation and Social Affairs of the Association.
  - (2) Association Meetings.
  - (3) Association Elections.
  - (4) Reports of Association Committees.
  - (5) Rulings or policies of the State or National Association.
  - (6) Legislative Enactments and Judicial Decisions Affecting Public Employee Labor Relations.
- C. Notices or announcements shall not contain anything political, or anything reflecting on the City, any of its employees, or any labor organization among its employees.

#### **Section 5.** Members of the Board of Directors.

Members of the Board of Directors who are on duty shall be permitted to attend the two (2) regularly scheduled board meetings each month, and up to two (2) specially called Board of Directors meetings per fiscal year. Such members of the Board of Directors who are on duty shall be subject to emergency recall, and the Association shall insure the immediate response capability of these Officers.

# Section 6. Addressing of Shift Roll Call Meetings, In-Service Training and Police Academy Cadet Classes.

Members of the Executive Board, members of the bargaining team, persons appointed by the Association to represent the Association and Board of Directors shall be permitted to speak at shift roll-call meetings about Association business for a period not to exceed ten (10) minutes. Prior to speaking at such roll calls, the Association representative shall notify the appropriate supervisor that he intends to speak.

Members of the Executive Board, members of the bargaining team, persons appointed by the

Association to represent the Association and Board of Directors shall be permitted to speak at inservice training for a period not to exceed one (1) hour. The President of the Association shall notify the Academy Commander in writing in November of the preceding year of the Association's intent to use a one (1) hour block with the yearly in-service training beginning in January of each year. The Academy Commander shall schedule the one (1) hour block and notify the Association in writing of the dates and time to appear.

Members of the Executive Board, members of the bargaining team, persons appointed by the Association to represent the Association and Board of Directors shall be permitted to speak to each Police Academy cadet class for a period not to exceed three (3) hours. Unless mutually agreed upon, such speaking shall be scheduled in no less than two (2) one (1) hour thirty (30) minute blocks. The Association shall provide a lesson plan to the Academy Commander and shall permit staff monitoring to assure compliance under this section.

Discussion by Association representatives shall pertain only to the recreation and social affairs of the Association; Association meetings; Association elections, reports of Association committees; activities of the State or National Association with whom the Association is affiliated; and legislative enactment, judicial decisions affecting public employee labor relations, legal assistance plans, and contract benefits and rights. Discussions by Association representatives shall not contain anything political or anything reflecting on the City or any of its employees or any labor organization among its employees. There shall be no prior restraint or censure by shift supervisors of Association representatives during roll-call discussions. In the event an Association representative allegedly violates this section, such alleged violation shall be subject to the Grievance Procedure.



# ARTICLE 7 Management Rights

#### Section 1.

Subject to the terms of this Agreement, the Association recognizes the management of the City of San Antonio and the direction of the Police Department are vested exclusively in the City, and nothing in this Agreement is intended to circumscribe or modify the existing right of the City to operate and manage its affairs in all respects. The Association recognizes the City's statutory and Charter Rights to:

# [COSA Proposal Sec. 1 (A)]

A. Direct and schedule the work of its Officers, to include the scheduling of overtime work in a manner most advantageous to the City. Officer work schedules shall not be changed solely to avoid or curtail overtime pay. The City shall have the right to reschedule up to eighty (80) hours of training per Officer per year. These hours shall include required TCOLE training and may include in service hours but the City is not required to use the entire eighty (80) hours each year.

# [SAPOA Counter-Proposal Sec. 1 (A)]

- A. Direct and schedule the work of its Officers, to include the scheduling of overtime work in a manner most advantageous to the City. Officer work schedules shall not be changed solely to avoid or curtail overtime pay. The City shall have the right to reschedule up to one hundred and twenty (120) eighty (80) hours of training per Officer per year, the City still maintains its right to schedule training during an Officer's regular work schedule. These hours shall include required TCOLE training and may include in-service hours but the City is not required to use the entire one hundred and twenty (120) eighty (80) hours each year.<sup>3</sup>
- B. Hire, promote, demote, transfer, assign and retain Officers in positions with the City.
- C. Discharge, demote, or suspend Officers, pursuant to the requirements of Chapter 143 Local Government Code and further and fully agreed to in Article 28, Disciplinary Actions, of this Agreement.
- D. Maintain the efficiency of governmental operations.
- E. Lay off Officers from duty because of lack of work, consistent with Civil Service Regulations, City ordinances and State laws.
- F. Determine the methods, processes, means, and personnel by which operations are to be carried out.

<sup>&</sup>lt;sup>2</sup> A7, Sec. 1 (A) – COSA <u>proposal</u> 2-26-2021

<sup>&</sup>lt;sup>3</sup> A7, Sec. 1 (A) – SAPOA counter 3-5-2021

- G. Transfer any City operation now conducted by it to another unit of government, and such transfer shall not require any prior negotiations or the consent of any association, group, organization, union or labor organization whatsoever.
- H. Contract and subcontract when it is in the best interest of the City.
- I. Use security personnel, which include, but are not limited to, such job classifications incorporated within the Classification Manual as Airport Police Officer, Park Police, Life Guard, School Crossing Guard, Municipal Guard, which require training in law enforcement, safety and security duties, firefighting skills, emergency medical treatment, water safety, and other similar related skills.
- J. Use of civilians in the Police Department to perform duties which do not require a Commissioned Officer or the power of arrest. The scope of such duties include, but are not limited to, communications, information systems, records, community services, clerical support, maintenance, school safety crossing, and jail operations. Civilians performing such duties are not subject to the terms of this Agreement. This subject is covered in detail in Article 39.4
- K. Establish classifications, job descriptions, and standards which provide the basis for recruiting and assignment. It is also understood that every duty connected with operations enumerated in job descriptions is not always specifically described. It is, nevertheless, intended that all duties relating to the present mission of the Police Department, as a public safety organization, shall be performed by the Officers.
- L. The Association recognizes the City's existing right to establish and enforce rules and regulations, special directives, administrative orders, and amendments for the conduct of the mission of the Department subject to the terms of this Agreement. The Chief has the right to amend, suspend, and/or alter such rules and regulations subject to the terms of this Agreement and approval of the Commission.
- M. Any person, whether sworn or unsworn, wishing to address Police Officer roll calls on any subject (except bargaining unit members who are running for Association office or shift representative and wish to make a statement concerning an election within the Association) must receive written permission from the Chief of Police or President of the Association. When permission is granted by the President of the Association, the restrictions involving subject matter and time outlined in Article 3, Section 6, shall apply. 5

#### Section 2.

Subject to review by the City Manager, the Chief shall have the exclusive right to:

<sup>&</sup>lt;sup>4</sup> A7, Sec. 1 (J) – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>rejects</u> COSA 3-5-2021

<sup>&</sup>lt;sup>5</sup> A7, Sec. 1 (M) - COSA proposal 2-26-2021 / SAPOA rejects COSA 3-5-2021

- A. Establish Departmental rules and regulations.
- B. Transfer Officers within the Department to accomplish the mission of the Department in the most efficient manner.

#### **Section 3.**

SAPOA Proposals & Counters 3.5 Except as otherwise specifically provided in this Agreement, the City, acting through the City Manager and the Police Chief, shall retain all rights and authority to which, by law, it is its

# ARTICLE 11 Promotions

#### Section 1. Definitions.

- Seniority For purposes of this Article, each Police Officer shall be given one A. point on a promotional examination for each year as a classified Police Officer in the San Antonio Police Department. In no event shall the number of such seniority points added to a passing score exceed ten (10). In addition, Patrol Officers who are testing for Detective Investigator shall receive an additional point for holding a Master Peace Officer Certification; an additional point for fifteen (15) years of time in rank as a Patrol Officer; and an additional point for twenty (20) years of time in rank as a Patrol Officer not to exceed a total of thirteen (13) points with the total to be added to the overall final passing score of the promotional examination for Detective Investigator. Detective Investigators who are testing for the rank of Sergeant will also receive in addition to the one (1) point on a promotional examination for each year as a classified police officer up to ten (10) points of seniority, an additional point for holding a Master Peace Officer Certification; an additional point for five (5) years time in rank as a Detective Investigator; and an additional point for ten (10) years time in rank as a Detective Investigator not to exceed a total of thirteen (13) points with the total to be added to the overall final passing score of the promotional examination for Sergeant. "Classified Police Officer" is meant to include service as an initial probationary Police Officer and probation after promotion. Seniority is defined as all years of service, whether interrupted or uninterrupted, on the San Antonio Police Department, and not merely the last continuous period of service.
- B. Eligibility Police promotional examinations shall be open to all Police Officers who have held a classified position with the San Antonio Police Department for two (2) years or more, immediately below the rank for which the examination is to be held and have obtained an evaluation for two (2) years or more of "meets" or "exceeds" expectations. Promotional examinations to the rank of Detective Investigator shall be open to only those officers within the classification of a Class C or higher patrol officer; no Officer shall be permitted to take a promotional examination to the rank of Detective Investigator until being in the classification of a Class C or higher Patrol Officer. Any Officer meeting the seniority requirement of a promotional rank on or before the date on which the previous eligibility list expires will be eligible to apply and test for that rank. Any Officer who would obtain the classification of a Class C patrol officer before or during the month in which the previous Detective Investigator eligibility list expires will be eligible to apply and test for the position of Detective Investigator. <sup>6</sup>
- C. Seniority in Rank Time Within a Classified Police Officer Rank. The Officer with the most time in a classified rank shall be considered the senior. Officers promoted on the same day shall be promoted at least one minute apart to establish seniority in rank. Seniority in rank for newly hired Police Officers shall be determined by their ranking on the eligibility list and effective with their appointment to probationary Police Officer.

<sup>&</sup>lt;sup>6</sup> A11, Sec. 1 (B) Eligibility – COSA proposal 2-26-2021 / SAPOA counter refer to Sec. 9 Work Study 3-5-2021

D. Return From Military Service - Effective with the signing of this Agreement, officers who were serving on active military duty as members of the armed forces and who were eligible promotional candidates according to the rules as set out by USERRA when a Department promotional exam was offered, who did not take the exam, may apply within 30calendar days after notice by the City of their rights and obligations under this subsection upon their return to the Department from active military duty, to take the next available promotional exam given for that rank for which they are currently eligible. If the Officer's score would have resulted in a promotion if it had been achieved on the exam(s) missed due to active military service, the Officer must be promoted to the next available vacancy in that rank. Seniority in rank and retroactive back pay owed will be established as of the date the Officer would have been promoted based on the score made at the time, as if he or she had not been on active military service. This provision is intended to comply with requirements of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and to supersede the terms of Section 143.032(b) of the Texas Local Government Code. This Agreement does not prevent the City from taking steps to comply with USERRA under unique or special circumstances

#### **Section 2. Study Materials.**

A. **Study Materials Committee** - The Chief shall establish a separate committee for the selection of proposed study materials for each promotional examination by rank (written and/or Video Recorded Assessment). This committee will be comprised of two members appointed by the Chief and two members appointed by the President of the San Antonio Police Officers Association and shall be facilitated by the Training Academy Commander. This Committee will consult with the test consulting company to assure support from the job analysis throughout the materials selection process. Each member of the Committee will sign a pledge of confidentiality, agreeing to not release any information pertaining to any study materials selected by the Committee to be forwarded to the Chief in order to maintain the security of the selection process. Members of the Committee shall rank the material collectively and forward their recommendations to the Chief. Study materials for all ranks shall not be the same for any two consecutive years. The exceptions include, the Texas Penal Code, the Code of Criminal Procedures, the General Manual, the Collective Bargaining Agreement and if developed, the promotional study book for the Department.

This Committee will also make recommendations for the Video Recorded Assessment criteria based on job relatedness, responsibility and consistent with the recommendations for legal compliance, of the consulting company. After reviewing the recommendations, the Chief shall consult with the test consulting company to assure support from the job analysis. After his consultation, the Chief shall make the final decision and forward his selections and/or changes to the consulting company hired by the City to create the test. The committee membership will be changed after each testing cycle. The committee members appointed by both the Chief and the President of the Association will hold the same rank or higher as the position being tested for.

Failure to comply with the confidentiality pledge may result in disciplinary action ranging from a

written reprimand to indefinite suspension.

#### B. **Promotional Text Materials**

- 1. The City shall limit the promotional material for all ranks to two hundred (200) pages of text except for text taken from the Texas Penal Code, the Code of Criminal Procedures, the General Manual, and the Collective Bargaining Agreement. For purposes of this section, two hundred pages of text shall be defined as text that averages approximately 750 words per page. An Officer may not file any grievance or appeal based on the limitations involving pages of text and words. Text taken from the Texas Penal Code, the Code of Criminal Procedures, the General Manual and the Collective Bargaining Agreement, will not count toward the two hundred (200) page limit and the candidates will be provided access to this text online or in another electronic format. An Officer shall have the ability to opt out of an online/electronic format and receive a paper copy.
- 2. In the alternative to the 200 page limitation from one or more textbooks, the City may develop a promotional study book with advice by the Testing Consulting Company and input from the Association, which shall not be subject to the 200 page limitation. Once the SAPD promotional study book is implemented, the City shall not draw test questions from other sources except use any other text books other than the Texas Penal Code, the Code of Criminal Procedures, the General Manual, and the Collective Bargaining Agreement, access to which shall continue to be made available to the candidates online or in another format. The promotional study book will also be made available to the candidates online or in another electronic format and may be revised annually. An Officer shall have the ability to opt out of an online/electronic format and receive a paper copy. 8
- 3. The City shall attempt to obtain the publisher's permission to duplicate and distribute to the candidates the study materials without incurring any fee, cost, penalty or liability to the publishers, and if it does obtain this permission, the City will bear the expense of making the printing or reproduction of the study materials available for distribution to eligible candidates. However, the City will not be required to perform the aforementioned provision printing, reproduction, and dissemination of the study materials if the permission of the publishers to do so cannot be obtained without any cost, penalty, or liability to the publishers. Where the City cannot obtain such permission, the City will make arrangements to ensure that all of these study materials (e.g., textbooks) are available at one or more locations within the City for purchase by the candidates. Candidates who purchase study materials and who score seventy percent (70%) or higher on each of the examinations applicable to the promotion sought will be reimbursed for the price of the study materials. 9
- 4. After the Chief has made his selections, the City Human Resources Department will ensure the pick up the study materials. The study materials are prepared for distribution will be printed and/or reproduced under circumstances which will promote security. The Human

<sup>&</sup>lt;sup>7</sup> A11, Sec. 2 (B) (1) – COSA proposal 2-26-2021 / SAPOA counter 3-5-2021

<sup>&</sup>lt;sup>8</sup> A11, Sec. 2 (B) (2) - COSA proposal 2-26-2021 / SAPOA counter 3-5-2021

<sup>&</sup>lt;sup>9</sup> A11, Sec. 2 (B) (3) - COSA proposal 2-26-2021 / SAPOA rejects 3-5-2021

Resources Department will verify the completeness of the <u>material paekets</u>. No question will be included in the written examination unless it derives its source from the study material. <sup>10</sup>

- 5. Until the adoption of the SAPD promotional study book(s) the date and method location that the study materials will be made available to the for candidates to pick up or the location where the study materials may be purchased will be announced in the Daily Bulletin for five (5) consecutive working days. Until the adoption of the SAPD promotional study book(s) in accordance with this Section, the study materials shall be either announced as to location for purchase or made available provided to eligible candidates during a period which is not less than ninety (90) calendar days prior to the examination. If the City has developed a promotional study book for the Department, the announcement and provision of such materials shall be not less than 365 calendar days prior to the examination. Once the study materials are provided to the candidates, the material will not be altered in any manner, other than to update change in law and Department policy. If an Officer opts to receive a paper copy of the text materials, the City shall notify the Officer as to the location to pick up the text material. 11
- 6. The City may schedule and hold provide notice of a promotional examination and the study materials before an eligibility list has expired, and prior to the existence of any vacancy, and no Officer shall have any right or claim based on eligibility dates as a result, provided that the City complies with all Chapter 143 requirements. A new promotional eligibility list will become effective on the day it is certified by the Fire and Police Commission. In no case will a new eligibility list become effective before the expiration of a previous eligibility list for the same rank, unless said eligibility list has been established. This provision is intended to supersede the terms of Section 143.056(h) of the Texas Local Government Code.

# Section 3. Promotion to Detective Investigator, Sergeant, Lieutenant and Captain.

A. The City shall engage an outside bonded consultant to prepare written promotional examinations for each rank.

Beginning at least one hundred and twenty (120) calendar days before the administration of the examination, the City will announce in the Daily Bulletin the date of the examination and the location and dates that any eligible officer may register for the examination. This announcement will run for five (5) consecutive working days. Candidates for the promotional examinations shall register for the examination between one hundred and fifteen (115) and one hundred and five (105) calendar days before the written examination.

Except as provided in Section l (D), all eligible candidates for promotion to a particular rank shall be given the identical written examinations applicable to that rank in the presence of each other. The written examinations will consist of multiple choice written questions, which shall have predetermined correct answers to enhance the objectivity of the written examination.

<sup>&</sup>lt;sup>10</sup> A11, Sec. 2 (B) (4) – COSA proposal 2-26-2021 / AGREED

<sup>&</sup>lt;sup>11</sup> A11, Sec. 2 (B) (5) – COSA proposal 2-26-2021 / SAPOA counter 3-5-2021

<sup>&</sup>lt;sup>12</sup> A11, Sec. 2 (B) (6) – COSA proposal 2-26-2021 / SAPOA rejects 3-5-2021

The preparer of the written examination shall deliver the examination sealed and numbered to the Civil Service Director who is charged with the responsibility for the security of all written promotional examinations. The written examination shall remain sealed until opened in the presence of the participants.

All of the questions asked on the written examination must be prepared and composed in a manner that the grading of all examination papers can be completed immediately after the examination is held. All written examination papers shall be graded as they are completed, at the place where the written examination is given, and in the presence of any candidates who wish to remain during the grading. Written examination grading will be performed within fifty (50) feet of any entrance or exit from the examination room in open view of all candidates. A minimum passing score of seventy percent (70%) out of a possible one hundred percent (100%) (unless a qualified consultant shall determine a different cut off score, based on the statistical validity of the test, which shall be subject to Commission review and approval) is required on each promotional examination (written or written plus assessment) applicable to the rank to which the officer seeks promotion.

Each eligible promotional candidate shall have the opportunity to examine written test source materials and their own graded examination paper and answers within five (5) consecutive working days after the examination. The candidate may see the above material, but may not remove the graded examination paper from the Human Resources Department.

Candidates arriving after the appointed starting time of the examination will not be admitted or allowed to participate in the examination.

All questions formulated by the outside consultant for the written examination (and their correct answers) shall be derived from the materials selected by the Chief as study materials in accordance with Section 2. Matters relative to the construction of any promotional written examination which are appealable to the Civil Service Commission pursuant to Chapter 143, Local Government Code, shall continue to be appealable and the decision of the Commission shall be final.

- B. In addition to meeting the requirements as set forth in Subsection A, promotional examinations for Detective Investigator and Sergeant shall consist of one (1) written examination which shall not exceed either one hundred (100) multiple choice questions or two (2) hours in length. If the City complies with the conditions in subsection (D) below, the promotional examination during 2013 for Sergeant may include an assessment portion in accordance with the provisions below.
- C. In addition to meeting the requirements as set forth in Subsection A, promotional examinations for Lieutenant and Captain shall consist of a written examination which shall not exceed one hundred (100) multiple choice questions or two (2) hours in length and a Video Recorded Assessment which shall be weighted as set forth below. <u>In order to sign-up to participate in any video recorded assessment center, candidates must have taken and received a passing score on the written examination for that rank. <sup>13</sup></u>

<sup>&</sup>lt;sup>13</sup> A11, Sec. 3 Promotion to Detective Investigator, Sergeant, Lieutenant and Captain (C) – COSA proposal 2-26-

#### D. Sergeant Assessment

- (1) In order to commence a sergeant assessment, the City agrees to the following:
  - To successfully complete and implement an SAPD Promotional Text for each rank;
  - To implement a Supervisory Leadership Training Program for all candidates for promotion to a civil service supervisory tested rank; and
  - To implement a mentorship program for all new supervisors.
- (2) Upon successful completion of the above requirements, the City shall be entitled to implement each of the provisions of this Agreement concerning Video Recorded Assessment which shall become applicable and shall apply that to the Sergeant examination, with the sole exception that the Video Recorded Assessment shall be weighted at twenty percent (20%) and the written examination shall be weighted at eighty percent (80%) which is set forth below (subparagraphs E, F, G, H, L, M, N, and 0). The Consulting Company will conduct three orientation sessions for candidates at least one month in advance of the written examination. The orientation component will be designed to familiarize eligible candidates on the Video Recorded Assessment requirements and process. The Consulting Company or the City may not deem the orientation mandatory, since participation in the orientation is totally voluntary. The City will schedule at least three (3) orientation sessions at different times, and will provide a DVD copy of all three (3) orientation sessions upon request to any eligible promotional candidate.
- E. The Consulting company hired by the City will design the Assessment cadre using a variety of exercises that may include: In-Basket; Problem Solving/Analysis; Oral Resumes/Structured Interviews, Leaderless Group Presentation; Role Playing; Memo/Report Writing; Oral Presentation/Plan Preparation; Staff Meeting; Special Event/Operations; and others as they are established and determined to be reasonably valid predictors of job related characteristics. The Consulting Company is not required to utilize all of the exercises above, but may select the exercises or combine the listed exercises into one or more exercises that are best suited for the particular rank and as recommended by the Study Materials Committee.
- F The Consulting Company shall also select the assessors who shall meet the following criteria:
- 1. Equivalent rank to the promotion, or above, from a municipal police agency from cities with a population of 200,000 or greater;
  - 2. Shall not reside in the San Antonio Standard Metropolitan Statistical area;

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- 3. Shall not be related within the second degree to any candidate for promotion;
  - 4. Shall not personally know any candidate for promotion;
- 5. Shall have at least two (2) years of experience in the rank being assessed or an equivalent rank; and
- 6. Shall not be a current or former employee of the City of San Antonio, SAPD or any other entity legally related to or controlled by the City of San Antonio.
- Assessment requirements and process conduct three orientation sessions for candidates at least one month in advance of the written examination. Candidates will be allowed to submit questions to the Consulting company for a period of one week after posting the online orientation. Answers to the questions will be posted online for candidates to review at least 14 calwendar days in advance of the Video Recorded Assessment. The orientation component will be designed to familiarize eligible candidates on the Video Recorded Assessment requirements and process. The Consulting Company or the City may not deem the orientation mandatory, since participation in the orientation is totally voluntary. The City will schedule at least three (3) orientation sessions at different times, and will provide a DVD copy of all three (3) orientation session, upon request to any eligible promotional candidate. 14
- H. The assessors selected by the Consulting Company will assess the candidates for the rank being tested.
- I. The total score for the rank of Lieutenant shall be calculated by the Consulting Company as follows:

Written Test Score	Maximum of 100 x .40	40 Pts. Plus
Video Recorded Assessment Score	Maximum of 100 x .60	60 Pts. Plus
Seniority Points	Maximum of 10 @ 1 / year	10 Pts.
Maximum Possible Points		110 Pts.

J. The total score for the rank of Captain shall be calculated by the Consulting Company as follows:

Written Test Score	Maximum of 100 x .30	30 Pts. Plus
Video Recorded Assessment Score	Maximum of 100 x70	70 Pts. Plus
Seniority Points	Maximum of 10 @ 1 / year	10 Pts.
Maximum Possible Points		110 Pts.

<sup>&</sup>lt;sup>14</sup> A11, Sec. 3 Promotion to Detective Investigator, Sergeant, Lieutenant and Captain (G) – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>agrees</u> subject to discussion of teleconference 3-5-2021

K. After the Video Recorded Assessment scoring has been completed for the Sergeant examination under this Agreement, the total score shall be calculated by the Consulting Company as follows:

Written Test Score	Maximum 100 x .80	80 Pts. Plus
Video Recorded Assessment	Maximum of 100 x .20	20 Pts. Plus
Score		
Seniority Points	Maximum of 10 @ 1 / year	10 Pts.
Other Points (Section 1 (A))	Maximum of 3	3 Pts.
Maximum Possible Points		113 Pts.

- L. A final official rank order list shall be created of all eligible candidates in accordance with all the promotional procedures set forth herein. The final list of eligible candidates for the rank of Lieutenant and Captain shall remain in effect for eighteen (18) months. The final list of eligible candidates for the rank of Detective Investigator and Sergeant shall remain in effect for twelve (12) months. When the Sergeant assessment is initiated, the final list of eligible candidates for the rank of Sergeant will increase from twelve (12) to eighteen (18) months.
- M. The Video Recorded Assessment may be appealed using a Second Review Process as established and overseen by the Consulting Company. The decision of the Consulting Company regarding appeals using the "Second Review Process" shall be final and binding.
- N. The consulting company will be responsible for the security of the Video Recorded Assessment process.
- O. In the case of a Force Majeure Occurrence that prevents the promotional examination from occurring, the examination shall be rescheduled within fourteen (14) calendar sixty (60) days of the originally scheduled examination if there is a mutual agreement of the parties. In the event of a rescheduling, no further notice of the examination is required other than the new time, place, and date of the rescheduled examination. The postponement announcement and rescheduled date are approved by the Fire and Police Civil Service Director and do not require Commission approval. This provision specifically preempts Chapter 143 of the Texas Local Government Code, including but not limited to sections 143.029 and 143.107.

A "Force Majeure Occurrence" shall mean an occurrence beyond the control and without the fault of the City. Without limiting the generality of the foregoing, force majeure occurrences shall include: acts of nature (including fire, flood, earthquake, storm, hurricane, ice storm or other natural disaster), war, invasion, acts of foreign combatants, terrorists acts, military or other usurped political power or confiscation. <sup>15</sup>

# **Section 4. Requirements After Promotion.**

<sup>&</sup>lt;sup>15</sup> A11, Sec. 3 Promotion to Detective Investigator, Sergeant, Lieutenant and Captain (O) – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>counter</u> 3-5-2021

- A. Officers promoted to Detective Investigator, Sergeant, Lieutenant or Captain shall attend a mandatory investigator (Detectives), supervisory or management (Sergeant, Lieutenant and Captain) training program designed for that rank of no less than 40-hours prior to or after being promoted. Officers who are promoted to the rank of Detective Investigator, Sergeant, Lieutenant, or Captain and who have not attended the mandatory training program shall be required to attend the required training within sixty (60) calendar days of promotion.
- B. Officers promoted to Detective Investigator, Sergeant, Lieutenant or Captain shall be assigned to one or more Officers of equal rank for on-the-job field training for a period of no less than one (1) calendar month during their probationary period. Officers promoted to the rank of Captain shall be required to complete their on-the-job field training assigned to and physically working with a Captain assigned to the Patrol Division at a police substation.
- C. Within forty-eight (48) months after being promoted, Officers promoted to Lieutenant shall be required as a condition of maintaining the rank to complete with a passing grade at least sixty (60) hours of college credits or achieve an Associate's degree from an accredited college or university. Officers who have already satisfied this requirement shall present proof to the Chief of Police. Officers who fail to complete this requirement within the specified time period shall be demoted to their previous rank and seniority.
- D. Within sixty (60) months after being promoted, Officers promoted to Captain shall be required as a condition of maintaining the rank to obtain a Bachelor's Degree from an accredited college or university. Officers who have already satisfied this requirement shall present proof of completion to the Chief of Police. Officers who fail to complete this requirement within the specified time period shall be demoted to their previous rank and seniority.
- E. If the Officer fails to complete the mandatory college requirements within the prescribed time period after promotion, the Officer will be allowed to appeal the demotion only if exigent circumstances or an emergency situation occurred which would have prevented the Officer from completing the requirements.
- F. If an Officer is promoted to the next higher rank before completing the educational requirements for his previous rank, the time requirements remain in effect for completion of the appropriate educational requirements for that previous rank. For example, an Officer is promoted to Lieutenant on January 1, 2001 and has forty-eight (48) months to complete sixty (60) hours of college credits or achieve an Associate's degree. The Officer is promoted to Captain on January 2, 2004 without achieving the college hours or the degree. The Officer will have until December 31, 2004 to obtain sixty (60) hours of college credit or an Associate degree.

# Section 5. Appointment to Deputy Chief.

The Chief of Police shall have the right to appoint a total of six (6) Deputy Chiefs which shall be one rank immediately above the rank of Captain and one rank immediately below the

Assistant Chief in the chain of command. This Article shall create no positions within the rank of Deputy Chief other than by this Article. As vacancies occur in the rank of Deputy Chief, the Chief of Police shall either appoint an Officer or permanently abolish the position within ninety (90) calendar days in accordance with this Section. Should the Chief of Police fail to appoint and the position is permanently abolished, the position of Deputy Chief shall revert to the rank of Captain or Lieutenant, whichever is applicable. Appointments to the rank of Deputy Chief shall be by the Chief of Police at his sole discretion, provided that the Officer promoted is a Captain or a Lieutenant provided the Lieutenant has a minimum of two (2) years in rank.

Officers appointed to this rank shall be subject to overall City policies and regulations and while appointed to this rank shall not be subject to the provisions of Chapter 143, Local Government Code, or any provision of this Agreement, unless specifically so provided by this Article.

Officers appointed to the rank of Deputy Chief shall be required as a condition of maintaining the appointed rank to obtain a Master's Degree from an accredited college or university within forty-eight (48) months after being appointed. Deputy Chiefs who have already obtained a Master's Degree prior to being appointed to the rank of Deputy Chief, shall present proof of completion to the Chief of Police within seven (7) calendar days of being appointed to the rank. Deputy Chiefs who have not obtained a Master's Degree, must complete and make a passing grade on at least nine (9) hours of Master's Degree requirements in an approved Master's Degree program every twelve (12) months after being appointed to the rank of Deputy Chief until such time as a Master's Degree is awarded. Deputy Chiefs will submit proof of the completion of the required hours to the Chief of Police and the Association on their annual promotion date until such time a Master's Degree is obtained. Deputy Chiefs who fail to complete this requirement within the specified time periods shall be demoted within ten (10) calendar days after verification by the Chief of Police of the Officer's non-compliance. Officers shall be demoted to their previous civil service rank and seniority.

Any Officer appointed to the rank of Deputy Chief may be demoted to their last tested civil service rank at the sole discretion of the Chief of Police without appeal to the Commission and/or Arbitration. Any Officer appointed to this rank may, further, voluntarily return to their last tested rank at any time. Upon demotion or voluntary return to the previously-held rank pursuant hereto, the Officer shall receive thereafter the full benefits provided in Chapter 143, Local Government Code, and this Agreement as if he had served in that rank on a continuous basis throughout his tenure as Deputy Chief, and any other non-tested appointed rank. An Officer appointed to the rank of Deputy Chief may be terminated for cause, provided that such termination shall be subject to appeal in the same manner as applicable to all classified uniformed Officers in the Department.

Except for the position of Deputy Chief, nothing in this Article shall be construed to require the City to create the rank or establish and fill the maximum number of positions authorized herein. Further, nothing in this Article shall be construed to limit any existing right of the City to create ranks and establish positions in accordance with State law and City Charter.

Deputy Chiefs appointed by the Chief of Police pursuant to this Section of this Agreement,

may receive administrative leave for work performed in excess of their regularly scheduled duties. Said leave time may be granted at the discretion of the Chief of Police, subject to the scheduling and manpower contingencies that may arise.

Officers appointed to the Deputy Chief position by the Chief of Police as provided for in Article 11, Section 5, supra, of this Agreement, shall be compensated at an annual salary of not less than fifteen percent (15%) above the rate of a 30-year Captain's base pay at Step B plus longevity. The Officers so assigned shall be entitled to all benefits as contained in the following specified Articles of this Agreement: Articles 1; 2; 3; 4; 5; 6; 7; 9; 10 Section 3; 11 Section 6; 14 Section 1; 16 Sections 2; 17; 19; 20 (without premium pay); 21; 22 Sections 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11; 23; 29; 30; 31; 32; 33; 34; 35; 36 Sections 1, 2, 4, 5, 6; 37 and 38.

The City agrees to defend, indemnify, and hold harmless the Association and its Officers, agents, representatives, and Officers from any action, at law or in equity, brought by any Deputy Chief or other member(s) of the unit regarding this Section.

# Section 6. Appointment of Assistant Chief.

The Chief of Police shall have the right to appoint two (2) Assistant Chiefs which shall be one rank immediately above the rank of Deputy Chief and one rank immediately below the Chief of Police in the chain of command. This Article shall create no positions within the rank of Assistant Chief other than by this Article. As vacancies occur in the rank of Assistant Chief, the Chief of Police shall either appoint an Officer or permanently abolish the position within ninety (90) calendar days in accordance with this Section. Should the Chief of Police fail to appoint and the position is permanently abolished, the position of Assistant Chief shall revert to the rank of Captain or Lieutenant, whichever is applicable. Appointments to the rank of Assistant Chief shall be by the Chief of Police at his sole discretion, provided that the Officer promoted is a Deputy Chief, Captain or a Lieutenant provided that the Lieutenant has a minimum two (2) years in rank).

Officers appointed to this rank shall be subject to overall City policies and regulations and while appointed to this rank shall not be subject to the provisions of Chapter 143, Local Government Code, or any provision of this Agreement, unless specifically so provided in this Article.

Effective October 1, 2005, as to Officers appointed thereafter only, Officers appointed to the rank of Assistant Chief from Deputy Chief rank shall be required as a condition of maintaining the appointed rank to obtain a Master's Degree from an accredited college or university within thirty-six (36) months after being appointed. Effective upon the execution of this Agreement, If a Captain or Lieutenant is appointed to Assistant Chief they shall have forty eight (48) months in order to obtain a Master's Degree from an accredited college or university. Assistant Chiefs who have already obtained a Master's Degree prior to being appointed to the rank of Assistant Chief, shall present proof of completion to the Chief of Police within seven (7) calendar days of being appointed to the rank. Assistant Chiefs who have not obtained a Master's Degree must complete and make a passing grade on at least one-third of any Master's Degree requirements they have left to obtain in an approved Master's

Degree program every twelve (12) months after being appointed to the rank of Assistant Chief until such time as a Master's Degree is awarded. Assistant Chiefs will submit proof of the completion of the required hours to the Chief of Police and the Association on their annual promotion date until such time a Master's Degree is obtained. Assistant Chiefs who fail to complete this requirement within the specified time periods shall be demoted within ten (10) calendar days after verification by the Chief of Police of the Officer's non-compliance. Officers shall be demoted to their previous civil service rank and seniority. <sup>16</sup>

Any Officer appointed to the rank of Assistant Chief may be demoted to their last tested civil service rank at the sole discretion of the Chief of Police without appeal to the Commission and/or Arbitration. Any Officer appointed to this rank may, further, voluntarily return to their last tested rank at any time. Upon demotion or voluntary return to the previously-held tested rank pursuant hereto, the Officer shall receive thereafter the full benefits provided in Chapter 143, Local Government Code, and this Agreement as if he had served in that rank on a continuous basis throughout his tenure as Assistant Chief, and any other non-tested appointed rank. An Officer appointed to the rank of Assistant Chief may be terminated for cause, provided that such termination shall be subject to appeal in the same manner as applicable to all classified uniformed Officers in the Department.

Assistant Chiefs appointed by the Chief of Police pursuant to this Section of this Agreement, may receive administrative leave for work performed in excess of their regularly scheduled duties. Said leave time may be granted at the discretion of the Chief of Police, subject to the scheduling and manpower contingencies that may arise.

Officers appointed to the Assistant Chief position by the Chief of Police as provided for in Article 11, Section 6, supra, of this Agreement, shall be compensated at an annual salary of not less than eight percent (8%) above the rate of a Deputy Chief's base pay plus longevity (a 30 year Captains base pay at Step B + .18 times that base pay). The Officers so assigned shall be entitled to all benefits as contained in the following specified Articles of this Agreement: Articles 1; 2; 3; 4; 5; 6; 7; 9; 10 Section 3; 11 Section 6; 14 Section 1; 16 Sections 2; 17; 19; 20 (without premium pay); 21; 22 Sections 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11; 23; 29; 30; 31; 32; 33; 34; 35; 36 Sections 1, 2, 4, 5, 6; 37 and 38.

The City agrees to defend, indemnify, and hold harmless the Association and its officers, agents, representatives, and Officers from any action, at law or in equity, brought by any Assistant Chief or other member(s) of the unit regarding this Section.

# Section 7. Uniformed Evidence Detective Initiative<sup>17</sup>

In the 2009 - 2014 Agreement, the Chief implemented an expansion in the Detective Investigator elassified job description in accordance with the provisions of this Article to include 154 Detective Investigator positions. Even if they are on an existing eligibility list, Officers promoted to Detective Investigator on or after March 4, 2011 the classification change shall be subject to

<sup>&</sup>lt;sup>16</sup> A11, Sec. 6 Appointment of Assistant Chief – COSA proposal 2-26-2021 / AGREED

<sup>&</sup>lt;sup>17</sup> A11, Sec. 7 Uniformed Evidence Detective Initiative – SAPOA proposal 2-26-2021

assignment in both the traditional Detective Investigators positions and in Uniformed Evidence Detective (U.E.D.) patrol assignments. Should they choose to waive their "grandfathered" status, Detective Investigators currently assigned to the Crime Scene Unit may be assigned by the Chief to Uniformed Evidence Detective Patrol assignment. Additionally, all other Detective Investigators promoted prior to the amended Detective Investigator job classification, who do not opt into the initiative, shall not be ordered to accept assignments to U.E.D. positions, but any Detective Investigator who voluntarily opts into the initiative and a U.E.D. assignment, shall be subject to such assignment from that point forward and shall be subject to the new classified job description for the Detective Investigator rank. Officers on a current Detective Investigator eligibility list will be subject to a promotion with assignment to a U.E.D. slot upon the implementation date of the initiative. When a detective investigator promotion is accepted, the Officer is subject to the new Detective Investigator classification and all assignments including assignments. Given the full implementation of this change in the classified Detective Investigator position, sole control over staffing levels in all positions and ranks shall be within the authority of the Chief and the City Council in accordance with the Provisions of Chapter 143. As implementation of the UEDI is completed the 70%-30% civilian to uniform balance, as per Article 39, of the current CSI unit will be phased out on a pro rata basis with the departure of uniformed officers from the unit. Any new Major Crimes CSI or similar unit that is created in the future will retain sworn supervisors for civilians.

#### **Section 8.**

Any promotional exam approved by the Civil Service Commission prior to the signing of this Agreement will be handled in accordance with the previous Agreement, except as specifically provided for Detectives on any current eligibility list in Section 7 above.

# Section 9. Study on Improving the Promotional Process

The City and the Association agree that the purpose of the promotional process is to promote the best qualified or suited candidates for advancement in the San Antonio Police Department; and that all subjective and objective police promotional standards or models for selecting the best qualified or suited candidate should be considered, including but not limited to, employee performance review. The City and the Association agree that within ninety (90) calendars days of the effective date of this Agreement, the Parties shall select representatives to review police promotional standards or models in an effort to improve the selection of the best qualified or suited candidates for advancement. If the parties reach an agreement that requires the amendment of this Agreement, the Association and the City may seek ratification of this Agreement, and if approved by the majority of Association member voting and a majority of the City Council voting, it shall be attached as a part of this Agreement. <sup>18</sup>

#### **Section 9.** Force Reduction and Reinstatement Lists

If a reinstatement list is created pursuant to the requirements of Section 143.085 of the Local Government Code, the parties agree that the name of any person placed on such list will not be removed from the list

<sup>&</sup>lt;sup>18</sup> A11, Sec 9 (NEW) Study on Improving the Promotional Process – SAPOA proposal 2-26-2021

until the person has been re-promoted and that the list will expire only after all persons named on the list have been re-promoted. This change is intended to supersede the language of Chapter 143.085 concerning the duration of reinstatement lists. <sup>19</sup>

# Section 10 9. Preemption.

It is expressly understood and agreed that all provisions of this Article shall preempt any statute, Executive order, local ordinance, City policy Civil Service Commission rule or other City or rule, which is in conflict with or is inconsistent with this Agreement and the procedures developed hereunder, including for example and not by way of limitation any contrary provisions of Sections 143.028, 143.029, 143.031, 143.032, 143.033, 143.034, 143.35 and 143.036.

APOA Proposals & Counters 3.5

<sup>&</sup>lt;sup>19</sup> A11, Sec. 9 (NEW) Force Reduction and Reinstatement Lists – COSA proposal 2-26-2021 / AGREED

# ARTICLE 13 Hours of Work

#### **Section 1.** General Provisions.

- A. Work Period. Officers will continue to work a seven-day work period in accordance with past practice, as opposed to other work periods under the Fair Labor Standards Act. A "work period" means a regularly repeating seven day calendar cycle that consists of five, 8 hour or four 10 hour days.
- B. Contractual Overtime Provision. By past practice and through this Agreement, the City has established a pay pattern that allows Officers to receive overtime payment in pay or compensatory time for any hours outside of the Officer's regularly scheduled shift or workday. Nothing in the Agreement including Section I(C) below is intended, designed, or will change this practice. The City agrees it will continue to pay Officers for overtime in pay or compensatory time in accordance with this Agreement for any hours outside of the Officer's regularly scheduled shift or workday.
- C. FLSA 207k Partial Exemption. The City and the Association agree, that under the federal Fair Labor Standards Act, the City is entitled to the 43-hour exemption from payment of FLSA statutory overtime compensation. This means that the City is not required by federal law to pay overtime to Officers until after the Officer has worked 43 hours in a workweek. Within the context of this Agreement however, the City shall continue to pay all contractual compensation in accordance with Article 8 Maintenance of Standards, and in accordance with Section B above, which is enforceable by the grievance procedure of this Agreement. However, the City retains the right under Article 7, Management Rights, to change any process, accounting procedure, forms, periods, or other aspects of accounting practices if it reasonably determines that such change is necessary to comply with state or federal overtime law. The City and the Association agree that the City shall not be obligated in any FLSA enforcement lawsuit to pay overtime until a 43-hour threshold is reached.

#### Section 2. Local Government Code Section 142.0015 Override.

Section 142 0015 of the Local Government Code provides among other things, that officers may not be required to work over 40 hours in a week unless an "emergency" has been declared. Texas law, including but not limited to Section 174.006(a) of the Local Government Code, allows the parties to this Agreement to override and change that standard, and the parties expressly agree to override it. Accordingly, the Chief or any supervisor shall continue to be entitled to require work by officers beyond the regularly scheduled shift hours in a day, and over and above the 40 regularly scheduled hours within a seven-day work period. This practice, which the parties agree is both legal and proper without the need for a declaration of "emergency," will continue as a benefit to both the City and the Association, as a contract provision which has been continuously in effect under all previous collective bargaining agreements. Any claim for additional wages based upon Section 142.0015 is expressly waived

in consideration of the finalization of this agreement.

#### Section 3. Non-Shift Schedules

Officers who are not subject to shift work, or covered by other provisions of this Agreement, shall work eight (8) consecutive hours except for interruptions for lunch periods. The workday shall conform to those hours set by the City Manager for the other City employees who work regular non-shift work. The hours presently prescribed are from 7:45 a.m. to 4:30 p.m., with forty-five (45) minutes for lunch.

#### **Section 4.** Break Periods.

City policy has for some time permitted two fifteen (15) minute coffee and/or rest breaks per day when they can be taken without serious interference with the work at hand. Such breaks are normally taken mid-morning and mid-afternoon for Officers working non-shift, and for shift workers at comparable time during the shift. This policy shall continue to apply to the Department; however, the missing of any coffee and/or rest breaks because of the press of business shall not be grounds for overtime payment or for a grievance.

Notwithstanding this provision for compensation as to lunch, coffee, and/or rest breaks, Officers remain within full coverage and benefits, not limited to life insurance, health insurance, and Texas Workers' Compensation Act, if the Officers are traveling to or from lunch or breaks or during lunch or break time and are performing activities that are in furtherance of the affairs or business of police work. This shall apply unless the activities are specifically excluded by the provisions of the Texas Worker's Compensation Act and the rules of the Texas Workers' Compensation Commission, or are excluded by the standards set fotth in Article 36 of this Agreement.

Officers who have by practice worked an eight (8) or ten (10) consecutive hour workday, which included a thirty or forty-five minute lunch break, and are not specifically covered by the sections below will continue to do so.

#### **Section 5.** Hours for Certain Patrol Division Units.

Patrol Officers working on the Daylight ("A" Shift), Evening ("B" Shift), or Dog Watch ("C" Shift), or on the "T" shift of the Patrol Division shall work a seven (7) day work period, with daily hours compensated at straight-time according to assignments as follows:

Patrol Officers on the Patrol Daylight "A" Shift shall work from 6:00 a.m. to 2:00 p.m., with thirty (30) minutes for lunch and two fifteen (15) minute coffee breaks. Supervisors for this shift shall work from 5:30 a.m. to 1:30 p.m.

Patrol Officers on the Patrol Evening "B" Shift shall work from 1:30 p.m. to 9:30 p.m., with thirty (30) minutes for lunch and two fifteen (15) minute coffee breaks. Supervisors for this shift shall work from 1:00 p.m. to 9:00 p.m.

Patrol Officers on the Patrol Dog Watch of Night "C" Shift shall work from 10:30 p.m. to 6:30 a.m., with thirty (30) minutes for lunch and two fifteen (15) minute coffee breaks. Supervisors for this shift shall work from 10:00 p.m. to 6:00 a.m.

Patrol Officers on the Patrol "T" Shift shall work from 5:00 p.m. to 3:00 a.m. with thirty (30) minutes off for lunch and two fifteen (15) minute coffee breaks. Supervisors for this shift shall work from 4:30 p.m. to 2:30 a.m. There shall be an overlapping shift change with one roll call.

The Downtown Foot/Bicycle Patrol Unit officers shall be assigned to work one of two (2) tenhour shifts per day, daylight shift 7:30 a.m. to 5:30 p.m. or 5:30 p.m. until 3:30 a.m., with thirty minutes off for lunch and two fifteen (15) minute coffee breaks.

All supervisors assigned to patrol shifts shall report thirty (30) minutes prior to their shift and complete the shift thirty (30) minutes prior to scheduled shift hours with the exception of Bike Patrol.

If an Officer requests a thirty (30) minute meal break and is denied such request because of press of business a second time within such shift, and as a result thereof requests thirty (30) minutes of compensatory time or pay at straight time, said officer must submit an "incident report" to the Section Sergeant as to the reasons why the officer could not take said meal break. The granting of or the refusal to grant the compensatory time or pay at straight time by the Section Sergeant shall be final and binding on the officer, with no rights of appeal to the Commission and/or grievance and arbitration as provided elsewhere in this Agreement.

The City will continue to compensate Officers who work shifts for the thirty minute lunch, coffee and/or rest breaks; however, the time permitted by this article for those time periods shall in no event constitute time actually worked by an Officer unless that Officer is ordered by a supervisor to resume duties, or obtains supervisory authorization to do so.

#### **Section 6.** Hours for Certain Units.

Officers working on the daylight or night shift of CID or who are assigned to positions equivalent to those assigned to CID and who investigate criminal cases, file charges and dispositions, or who work in an undercover capacity shall work a seven (7) day work period with daily hours compensated at straight-time as follows:

- A. Officers below the rank of Lieutenant assigned to the daylight shift in CID or equivalent as described above may work from 7:45 a.m. to 5:45 p.m., with thirty (30) minutes off for lunch and two fifteen (15) minute coffee breaks.
- B. Officers below the rank of Lieutenant assigned to the night shift in CID or equivalent as described above may work from 7:00 p.m. to 5:00 a.m., with thirty (30) minutes off for lunch and two fifteen (15) minute coffee breaks.

C. Officers above the rank of Sergeant in the units operating under the ten (10) hour work day shall continue to work a tour of duty consisting of eight (8) hours and forty-five (45) minutes, with forty-five (45) minutes for lunch and two fifteen (15) minute coffee breaks, and shall be entitled to Saturday and Sunday as their regularly assigned relief days.

D. All existing schedules for units or Officers not specifically provided for in this Article remain under the discretion of the Chief.

E. Officers subject to the ten (10) hours, four (4) day workweek shall include, but not be limited to, the following or successors in function:

Off-Duty Employment Property Crimes Homicide

**Robbery Sex Crimes** 

Night C.I.D. Detectives Repeat Offenders Program

**Technical Investigations Detail Financial Crimes** 

Vehicle Crimes Wrecker Service

Officers assigned to the above units will continue to work the hours currently prescribed for those units and with lunch and break hours currently provided. It is not the intent of either the City or the Association to delete any unit currently operating under a four (4) day workweek as of the effective date of this Agreement.

Breaks are normally taken midway through the first half and midway through the second half of a tour of duty. The missing of any coffee and/or rest breaks because of the press of business shall not be grounds for overtime payment or for a grievance. <sup>20</sup>

# Section 7. Adjustment of Working Hours.

The Chief maintains the discretion to adjust working hours absed upon the need for service call loads, and other demands on shift personnel. The Chief shall have the right to adjust the working hours, and starting and ending time of any shift, or the units of C.I.D. covered by the ten (10) hour work day provided that such change does not cause an employee to work in excess of an average forty (40) regularly scheduled hours in a work period. In no case shall any changes in starting and ending times of shifts covered by Section 5 and 6 above exceed one hour in each calendar year. In the event the Chief decides to exercise his rights pursuant to this section, he shall notify the President of the Association in writing of the anticipated adjustment at least thirty (30) calendar days prior to implementation. The Association shall have fourteen (14) calendar days from the date so notified to submit any comments or objections to the proposed change in writing to the Chief. If objection is expressed by the Association, representatives of the Association and the Chief shall meet to discuss the anticipated adjustment within the next succeeding seven (7) calendar days. This right shall not be subject to appeal pursuant to the grievance procedure contained in Article 15 of this Agreement, with the sole exception that the issue of regularly scheduled work in excess of the

<sup>&</sup>lt;sup>20</sup> A13, Sec. 6 Hours for Certain Units – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>rejects</u> 3-5-2021

average forty (40) hours in a workweek may be appealed pursuant to the grievance procedure. Nothing in this <u>Article section</u> shall be construed in any fashion to limit the Chief's right to establish the working hours of units not covered by <u>Sections 5 and 6</u>. <sup>21</sup>

#### Section 8.

Both parties to this Agreement have a mutual interest in the maintenance of a "T" shift in the Patrol Division in order to accomplish better Officer availability and coverage during peak periods for police response and patrol activity. The "T" shift was created and fully implemented in the 2009 — 2014 Agreement. The parties agreed that after full implementation of the "T" shift, at or above 226 allocated positions, the Chief shall have the final authority to determine any later reallocation of Officers among the four shifts, and to manage staffing based upon the need for service, call loads, and other demands on shift personnel. It was further agreed that no grievance would be authorized after full implementation was achieved.

SAROA Proposals

<sup>&</sup>lt;sup>21</sup> A13, Sec. 7 Adjustment of Working Hours – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>rejects</u> 3-5-2021

<sup>&</sup>lt;sup>22</sup> A13, Sec. 8 – SAPOA proposal 2-26-2021 / COSA concurs 2-26-2021 / AGREED

# ARTICLE 14 City Property/Off-Duty Employment Office

#### **Section 1.** Introduction.

The existing policies for off-duty employment shall prevail, except that on matters involving jurisdiction or conflict of interest, the Chief shall have the right to amend the existing policies, subject to grievance procedure outlined in Article 15 of this Agreement. Provided, however, this article shall no longer permit a distinction between public and private events nor between for- profit and non-profit entities.

## Section 2. Off Duty Office.

The City shall establish an office staffed with <u>civilian personnel</u> a <u>minimum in rank of one Sergeant</u>, sworn support personnel, on duty transportation and office equipment necessary to handle requests of officers to work at City facilities. Such office shall be located in the Convention Center complex. Office space only, without additional staffing, shall be provided at the Alamodome. <sup>23</sup>

# Section 3. Use of Sworn Personnel at City Facilities.

A. The City shall utilize only sworn Officers for the purposes of providing security, crowd control, and other police-related activities at all City facilities. This shall not include ticket takers, badge checkers, or individuals whose duty is to enforce house rules. The Association recognizes that the City has legitimate reasons to work with performers or entertainer's special security needs. The City shall include in every contract for the use of City facilities that any vendor or lessee using said facility shall use only sworn Officers procured through the off-duty employment office for security, crowd control and other police-related activities while using the facility, and that number of Officers determined to be necessary by the off-duty employment office shall be paid by the vendor or lessee.

For the purposes of this article, City facilities shall include only the following:

- (1) The Convention Center Exhibit Halls and Banquet Halls or future expansions
- (2) The Lila Cockrell Theater
- (3) Market Square
- (4) Market Square's Centro de Artes Ballroom; Fiesta Room; and Farmers Market
- (5) La Villita

<sup>&</sup>lt;sup>23</sup> A14, Sec. 2 Office Duty Office – COSA <u>proposal</u> 2-26-2021 / SAPOA <u>rejects</u> 3-5-2021

#### (6) The Alamodome

(7) Municipal Auditorium (unless and until it is transferred to another entity, public or private, as to its ownership or operation) 24

- B. All Officers assigned to work at City facilities on an off-duty basis shall be compensated as follows. Police Officers, regardless of seniority or other compensation, shall be paid at 1.2 times the officer's straight time rate (not including longevity) for an Officer at Step C of the salary schedule found in Attachment 2 of this agreement. All supervisors, regardless of rank or seniority, shall be paid at 1.2 times the straight time hourly rate for a Sergeant at Step A of the salary schedule (not including longevity) if working in a supervisory capacity for the vendor. The straight time rate shall be computed by multiplying the Officer's appropriate monthly rate from Attachment 2 by twelve (12) months and dividing that product by 2080 hours in a work year. All payments will be made utilizing the Officer's biweekly payroll check.
- C. The office of the Chief of Police shall have the responsibility of staffing all City facilities with sworn Officers. The number of officers needed at any one such propeliy or facility shall be within the exclusive prerogative of the Chief. The Chief shall establish and maintain a Department Procedure for administering this Section. The Procedure shall include sign-up, notification on a rotating basis, and other policies necessary for the administration of this Section.
- D. The City agrees to pay Officers who work any Fiesta events and related activities in an off-duty capacity at Fiesta Pay, which shall be base plus longevity, times two (2). The City agrees to maximize the use of off-duty personnel who have signed up on the volunteer roster, and to minimize the use of on-duty personnel, subject to the other provisions herein. Fiesta activities and events will be those that are defined in the Official Fiesta Calendar published each year by the City and the Fiesta Commission. Events such as basketball games, concerts, or trade shows unrelated to Fiesta during the calendar days of Fiesta shall be paid at the regular overtime rate unless insufficient volunteers sign up for such events, then all volunteers whether or not from Fiesta volunteer roster shall receive Fiesta pay. Easter Sunday will not be covered under this Section but is covered under Article 20, Holidays, Section 1.
- E. The City and the Association shall not grant any exceptions to this Article, with the sole provision being that Officers who "volunteer" their time without remuneration, of any type, may work charitable events. "Volunteers" are not exempt from the requirements for off-duty employment at City facilities, even where such volunteers under this paragraph are working on City facilities, and written permission for volunteers to work at City facilities must be approved by the Office of the Chief or his designee.
- F. Nothing in this Article precludes the City from utilizing personnel from private security companies to provide day-to-day security for any of the facilities listed in paragraph A

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<sup>&</sup>lt;sup>24</sup> A14, Sec. 3 (A) (7) Use of Sworn Personnel at City Facilities – COSA proposal 2-26-2021 / AGREED

above.

- G. The City shall first be required to call or otherwise make available the opportunity for off-duty placement to SAPD personnel, and then to non-SAPD certified peace officer City employees. After having done so, the City may fill any remaining need for certified personnel with employees of other agencies outside the City organization.
- H. The Association, on behalf of the Department, will apply and coordinate any paperwork necessary to comply with the Private Security Act of Texas.
- I. Section 7(p)(1) of the Fair Labor Standards Act makes special prov1s10ns for Officers of public agencies that, at their own option, perform off-duty employment. This FLSA section provides that the City may facilitate the employment or affect the conditions of the Officer's off-duty employment. Additionally, the City may keep a roster and select from the roster, negotiate the Officers pay, retain a fee for administrative expenses, require the individuals who are hiring the officers to pay the costs directly to the City and establish procedures for the Officers to receive their pay, and require Officers to observe normal standards of conduct during their off-duty employment and enforce such requirements through disciplinary action

Since the off-duty employment provision was placed into the Agreement in 1988, the City and the Association have worked together to assure compliance. The Agreement of 1988 established an off-duty employment office and established off-duty compensation at the rate of 1.5 times an Officer's overtime rate in accordance with the Officer's rank. This was renegotiated in 1994 and reduced to 1.2 times the straight time for an Officer at Step C. Additionally in 1994, the City agreed to provide Officers the opportunity to take compensatory time instead of pay for off-duty purposes. This was considered a pass through of the pay benefit and was not intended or designed to impugn the separate and independent employer relationship outlined in Section 7. This Agreement removes the compensatory time payment allowance to eliminate any challenge to that relationship. In furtherance of the Agreements, the City has paid Officers in the rare instances where vendors did not pay. This was considered an important benefit to Officers and not designed or intended to alter the separate and independent status of outside interests utilizing City facilities. The City and the Association have a continued relationship within the scope of the Agreement that allows the City to negotiate Officer pay rates and conditions of off-duty employment while maintaining a separate and independent status from the individuals contracting to utilize City facilities and off-duty Police Officers.

J. Officers participating in the off-duty employment opportunities provided through this Agreement are working off-duty for the lessees of city facilities and not for the City or the Department. In the event of any ruling or holding by a Court or any determination by the Department of Labor that non-payment by vendors makes the City liable for FLSA overtime as the employer of Officers, the City may require that officers sign an agreement agreeing to look solely to the vendor for payment; provided, however, that the City will implement reasonable practices for collection of accounts in order to

achieve collection of such amounts in a commercially reasonable manner.

- In the event of any ruling or holding by a Court or any determination by the K. Department of Labor that results in altering or changing the benefits provided by this Agreement under this Article or challenges the ability of the City to determine compensation under this Article, the Association agrees that the City shall not be subject to provide additional wages, compensation, or incentives of any kind beyond that which is specified in this Article for purpose of off-duty employment at City facilities. To assure this outcome, the City and the Association agree to meet within ten (10) calendar days of the ruling, holding, or determination in an effort to resolve any conflicts with this Agreement. In the event that a compromise cannot be reached within the ten (10) calendar day window period, the City and the Association will submit all unresolved issues within thirty (30) calendar days before a neutral arbitrator selected by the parties. If the parties are unable to agree on an arbitrator, the parties will each submit the name of a qualified neutral person with DOL, judicial, or litigation experience in overtime and FLSA compliance in matters involving law enforcement officers. The two neutrals will select a third qualified neutral with the same experience who shall serve as the chairman of the arbitration panel. The dispute shall be submitted to the arbitration panel within ten ( I 0) calendar days of their appointment. The hearing shall be conducted under Rules 5-10 of the Expedited Labor Arbitration Rules appended hereto as Attachment I. The arbitration panel shall determine a decision within thirty (30) calendar days of their appointment. The arbitration panel's authority is limited to all claims or issues under this section; however under no case shall the arbitration panel issue a ruling that has the effect of changing compensation rates provided by this section. The decision shall be final and binding on all parties, and this process shall be exclusive for all claims or issues relating to the ruling, holding or determination which initiates the process. Officers seeking redress for off-duty employment grievances not relating to such issues shall do so on an individual basis and in accordance with the Grievance procedure of this Agreement.
- L. Officers shall be paid, in addition to the compensation for hours worked for lessees using City facilities, the City "special event" parking rate, which shall be an additional cost charged to the lessee as a part of total Officer security costs. This parking reimbursement shall be paid for one parking rate per day.

# ARTICLE 22 Miscellaneous Leave Provisions

#### **Section 1.** Leave Policies.

The Chief maintains the discretion to approve or deny leave based on operational necessity. All other leave policies in effect at the beginning of this agreement year shall remain in effect for the duration of the Agreement.<sup>25</sup>

### Section 2. Leave Pay Upon Separation.

A Police Officer who leaves the classified service for any reason shall receive a lump-sum payment in the full amount of his ending salary for the period of his accumulated compensatory time, holiday hours, sick leave hours (as provided by statute), bonus hours, and vacation hours, provided that such payment, in the case of vacation hours, shall be based upon not more than seven hundred and twenty (720) hours of accumulated vacation leave. The beneficiaries of any police officer who loses his life as the result of an injury or illness in the course and scope of employment or while employed as an Officer shall be paid the full amount of his salary for the total number of his hours of accumulated leave.

### Section 3. Leave Buy Back.

The City will buy back or convert either in "pay" or in "other forms of leave," at the officer's discretion up to 120 unused sick leave hours on a one-for-one basis provided that the officer requests same in writing on a form provided by the City by the end of the first pay period in October; and the officer has a balance after the buy back of not less than 400 hours accumulated sick leave, Sick leave buy back will be paid at the regular rate of pay, which includes the incentive pay used in overtime calculations, applicable to the officer at the time the payment is actually paid to the officer for the leave buy back.

Each October, the City will buy back or convert either in "pay" or in "other forms of leave," at the officer's discretion up to 8 unused bonus leave hours on a one-for-one basis provided that the officer requests same in writing on a form provided by the City by the end of the first pay period in October; and the officer has a balance after the buy back of not less than 400 hours accumulated bonus leave. Bonus leave buy back will be paid at the regular rate of pay, which includes the incentive pay used in overtime calculations, applicable to the officer at the time the payment is actually paid to the officer for the leave buy back.

The City shall distribute funds in cash or as other forms of leave. The City agrees to allow Officers to adjust their paycheck the pay period before or after the sale of leave hours in order for the officer to make contributions to their deferred compensation plan.

The Accounting Unit will run in the Daily Bulletin during the month of September notification to the Officer to file, in writing, for the leave buy back. The City will pay the Officer his amount due

<sup>&</sup>lt;sup>25</sup> A22, Sec. 1 Leave Policies – COSA proposal 2-26-2021 / SAPOA rejects 3-5-2021

at the same time as other City employees are paid for their leave buy back but not later than Christmas Eve day.

#### **Section 4. Bonus Hours Leave.**

Each Officer shall be entitled to 8-hours of leave for each quarter of a calendar year (beginning January 1) of "perfect attendance." Officers off from duty for one of the following reasons are not eligible to receive the 8-hour perfect attendance bonus: time off for sick leave; off-job injury leave; military leave in excess of 120 hours in a calendar year; leave without pay; stress leave; and suspensions. Full vacation days, holidays, and/or compensatory time usage that has not been scheduled and documented by the supervisor prior to the end of that officer's preceding day's shift will disqualify an Officer from receiving the perfect attendance bonus. Holidays, relief days, special assignments, administrative leave (with or without pay), and time restored by the Commission or an Arbitrator shall not affect the officer's entitlement to the perfect attendance bonus.

An officer may accumulate no more than 400 hours of perfect attendance bonus hour time.

In the event that an officer has reached the maximum number of Bonus Hours that may be accrued, the excess Bonus Hours may be converted to vacation leave or holiday leave at the discretion of the officer.

### Section 5. Compensatory Time Accrual.

Each Officer may accumulate 480 hours of compensatory time.

# Section 6. Holiday Leave Accrual.

Each officer may accumulate up to a maximum of three hundred and twenty (320) hours of holiday leave at the rate of at least eighty (80) hours per year.

## **Section 7.** Leave Conversion.

For purpose of clarification only, the following chart details the type of leave and what amounts over the accumulated maximum may be converted into at the discretion of the officer. Officers who have maximum accumulation in leave accrual that cannot be converted into other categories because of maximum accumulation in those categories are subject to Section 8 of this Article.

- Holiday (320 maximum hours) into Vacation
- Vacation (720 maximum hours) into Holiday
- Bonus (400 maximum hours) into Vacation/Holiday
- Sick (1:1) (as applicable per Section 3 above) into Compensatory Time/Holiday/Vacation

#### Section 8. Savings Clause.

No officer covered by this agreement shall lose any holiday, vacation, compensatory or bonus hours he accumulated during the duration of this agreement that exceeds the maximum permitted accrual amount allowed by this Agreement, unless, after being given written individual notice to take the holiday, vacation, compensatory or bonus hours within a specified period not less than thirty (30) calendar days, the officer fails to do so.

### **Section 9.** Flex Relief Days

Armed Forces Reserve or National Guard members will be entitled to flex relief days, (RDs), once a month for the purpose of meeting their two-day reserve/guard training commitment. This benefit is in addition to the annual fifteen (15) day military leave policy IAW Federal law.

# Section 10. Injury-on-Duty Leave.

Any Officer may be granted Injury-on-Duty (100) Leave by the Chief of Police after three hundred and sixty-five (365) calendar days from the original date of injury if:

- A. Medical documentation from the Officer's physician is provided showing additional medical treatment or procedures are needed and are as a result of the original injury.
- B. When presented with such medical documentation, the Chief shall have the right to require the Officer to be evaluated by a physician as designated by the City for confirmation of the findings of the Officer's physician. Should the determination of the City's designated physician be different than that of the Officer's designated physician, the two of them shall select a third physician who shall be supplied all pertinent and relevant records of the officer. This third physician shall evaluate said records and, if necessary as determined by him, conduct an additional medical evaluation of the Officer involved. The determination of this third physician shall be final and binding on parties and not subject to appeal to the Commission and/or grievance and arbitration as provided for in this Agreement. Should the determination of the third, independent physician agree with the Officer's physician, the City shall bear the cost of this third physician's evaluation.

If this third physician's evaluation agrees with the evaluation of the City's designated physician, the cost of the third physician's evaluation and examination shall be borne by the Officer.

- C. The Officer will not be charged any sick leave during any second or other occurring period of an original IOD incident, but will be granted immediate IOD leave.
- D. If it is determined by licensed physicians that the second or subsequent treatment period is not a result of the original injury, the Officer will have the IOD time rescinded and charged sick time. In the event the Officer has no sick time on the books, he will forfeit any other type of accumulated leave on the books to equal this IOD time taken off.

In the event the Officer has no time on the books, he or she shall pay back the time at one-half of all vacation, holiday, and sick time accumulated until all IOD leave is satisfied.

E. The Chief of Police shall have the final authority and it will no longer be necessary to submit such requests to the City Manager's Office, or City Council, for approval and extended IOD leave. In the event such additional IOD leave is denied, the employee will retain the right to appeal the denial to the City Manager and City Council.

### Section 11. Jury Duty.

A leave of absence, without loss of regular pay, shall be granted to an Officer upon his actual jury duty service, unless excused there from; provided, however, that such Officer waives or remits to the City his jury fee and provides proof of jury service verified by the court liaison section and submitted to Police Accounting.

#### Section 12. Sick Leave Pool.

Each officer shall accumulate 120 hours of sick leave, with pay, per calendar year.

When the total number of sick leave pool hours drops below 5,600, 8 hours of sick leave with pay from each officer participating in the program shall become part of the sick leave pool, and any remaining hours shall continue to be credited to the individual officer.

Officers having opted not to participate will not, under any circumstances, be allowed to enter the pool at any later date. Any Officer who voluntarily drops out of the pool may not, under any circumstances, be allowed to re-enter the pool. Notification to the Accounting Unit must be provided, in writing, by the Officer who drops out of the pool. The Accounting Unit shall include a copy of this report in the Officer's file, and must forward a copy to the Chief's Office for inclusion in the Officer's permanent "201" file. A copy must also be sent to the Association within thirty (30) calendar days of the date the Officer requests to drop out of the sick leave pool. No Officer shall be eligible to draw sick leave pool days until one (1) of his sick days is credited to the pool.

Upon completion of the initial two-month period of employment after graduation from the Academy, each Officer shall have 12 hours of sick leave credited to the pool. In the event of separation from employment prior to completion of the probationary period, the City ay adjust the pool for any sick leave hours not actually earned by the contributing probationary Officer. When an Officer retires or dies, any sick leave accumulated by the Officer that would have otherwise been forfeited shall be credited to the sick leave pool.

The Chief of Police and the President of the Association shall each appoint an equal amount of officers to a committee in rank to administer the sick leave pool. The Committee shall then elect a chairman. The resulting vacancy will be filled by the opposite appointing officer from that receiving the chairmanship. Example: If the Chief of Police appointee is elected chairman, the Association President shall appoint for the created vacancy.

The Chief of Police will select one Sergeant, one Detective and one Patrol Officer. The Association President will select one Detective and two Patrol Officers. In cases where an officer applies for sick leave pool benefits and holds a rank higher than sergeant, the Chief and President of the Association will each appoint one person of rank equal to or higher than held by the requesting Officer.

All committee members shall be appointed on or before October 1 of each year and shall serve one-year terms. Any vacancies occurring during the course of the term shall be filled within twenty-one (21) calendar days. No person shall be allowed to serve more than one (I) consecutive term. The City shall indemnify, defend, and hold harmless each committee member.

The following requirements determine when a committee may consider when sick leave pool hours may be drawn. A decision by the committee shall be final.

- A. Officers may be considered for sick leave pool hours after taking off 120 consecutive working hours of continuous non-job-related illness or injury. The 120 consecutive working hours used for eligibility shall be from an Officer's own accumulated leave and will not be refundable by the Committee or otherwise. The Department shall reimburse the Officer for any type of leave hours used in excess of the 120 consecutive working hours, if reimbursement is approved by the Sick Leave Committee.
- B. No officer shall be permitted to use more than 1440 pool hours for a single illness or injury.
  - C. Pool hours may not be used for injuries or illnesses sustained in the line of duty.
- D. The number of hours in the pool shall be solely for the benefit of officers with extended injuries or illnesses, and such hours shall not revert to the accumulated sick leave of individual officers.
- E. Pool time may only be used for disability, which is defined as a non-job-related injury or illness, which prevents an Officer from fully performing assigned duties in all major divisions of the Department.
- F The Committee Chairman may at any time or at the request of the Chief of Police reconvene the Committee for further consideration should evidence come forward that would affect the outcome of a Committee decision after a decision has been reached. The Committee by majority vote may extend, reduce, approve, cancel, or deny a pool usage, as the evidence requires.
- G. Officers desiring consideration for pool usage may be required to submit to medical examination by a City doctor and may be required to produce medical records, doctor's orders, and any other material necessary to render a decision by the committee.

- H. Upon any Officer being absent from duty 18-work weeks as a result of a single illness or injury, the Chief may require the Officer to submit to a medical examination to determine whether the officer is permanently disabled. When it is determined that an Officer is permanently disabled, the Chief shall be entitled to terminate or retire the officer, whichever is applicable, according to law existing.
- I. Officers applying to the Sick Leave Pool Committee for reimbursement of hours used in excess of 120 hours must do so within one year of return to duty, following the illness or injury.

### Section 13. Leaves of Absence.

The Chief may grant a leave of absence, without pay, to a maximum of five (5) officers, which granting shall not be unreasonably withheld. The primary purpose of this leave shall be to provide the officer with additional education in law enforcement related areas. Request for leave under this section for the purpose of the Officer continuing full-time formal education at an institution of higher learning shall be given priority. The duration of the leave shall be for a period of time as determined by the Chief, but in no event for a period to exceed three (3) calendar years. Should the leave be for the purpose of pursuing continued formal education at an accredited college or university of higher learning, the leave shall be granted on a semester-by- semester basis.

A leave of absence under this Section shall not be considered a break in service for promotional or seniority purposes. Officers on leave of absence shall not be eligible to apply for or take promotional examinations while on such leave.

An Officer on an approved leave of absence under this Section must return to regular assignment with the City for a period at least equal to the length of his leave. Should an officer fail to return to his regular assignment for such period, the leave taken shall be considered as a break in service for purposes of promotion, seniority, pay, and/or pension.

The Chief of Police may recall an Officer from a leave of absence granted under this Section in the case of an emergency for the duration of the emergency.

Officers on leave of absence may continue pension payments, and the City shall match such payments according to the requirements of state law. However, all other forms of compensation shall be withheld until such Officer returns to full-time status with the Department.

## Section 14. Balanced Work Life Environment Study 26

No later than ninety (90) calendar days after the effective date of this Agreement, the Department and Association shall meet and confer over a study to explore creating a balanced work life environment crucial to maintaining a mentally and physically healthy officer while meeting the work needs of the department. As part of the study, the Department and City should collect data

<sup>&</sup>lt;sup>26</sup> A22, Sec. 14 Balanced Work Life Environment Study – SAPOA amended proposal 3-5-2021

from exit interviews conducted when officers resign from the Department and collect data from active officers. It is in the best interests of the Department and the City to allow officers to have extended unpaid leave, adaptable work schedules, and mentoring to address changes in life. This consideration will benefit the future needs of Department and City in recruiting highly qualified applicants, and greatly enhance and provide a distinct advantage over competing law enforcement agencies that do not have a balanced work life environment. The study shall include, but is not limited to, the following subjects:

## A. Hardship Requests

Creating policies that allow Officers to submit hardship claims requesting to adjust current work assignment when they are faced with family care needs that are substantially interfering with their work life. The policies should include an interoffice memo detailing the circumstances of the hardship, the length of time the hardship is expected to exist, and the requested remedy to address the hardship. The interoffice memo should be submitted through the chain of command to the Division Commander. The Division Commander should submit hardships approved to the Hardship Committee. The Hardship Committee should be similar in organization to the Sick Leave Pool in Article 22, Section 12. The Hardship Committee's decision is final and binding.

## Issues that may qualify for a hardship related to family care

- 1. Divorces involving contentious custody issues
- 2. Family deaths creating child custody issues, family health care issues, or mental health concerns
- 3. Family health problems that cause a strain on the family's time and resources
- 4. Personal health problems that cause a strain on the family's time and resources
- 5. New family additions that cause a strain on the family's time and resources
- 6. Military leave in a family that changes childcare or elderly care needs
- 7. Catastrophic property damage

## Length of an approved hardship:

- 1. The hardship schedule should be classified as a special assignment.
- 2. The hardship schedule should last for 60 calendar days.
- 3. The hardship schedule could be extended at 60 calendar day increments if approved by the committee up 180 calendar days.

## Potential resolutions to address approved hardship applications:

- 1. Extended unpaid leave with urgent need (affects time in pension)
- 2. Part-time schedule at normal assignment (affects time in pension)
- 3. Flex-time schedule at normal assignment
- 4. Split schedules
- 5. Temporary trade of relief days upon agreement
- 6. Temporary reassignment

### B. Mentorship

Creating policies focus on the mental and physical health of officers which is crucial to maintaining a Department that builds trust with the Community and creates partnerships with the Citizens for a safer San Antonio. The Department and City should strive to create an internal Mentorship Program for Probationary Officers and any Officer requesting to join the program. A mentor will provide advice, guidance, emotional support, motivation, and role modeling to the mentee depending on the needs of the mentee. Officers can volunteer to be a mentor in the program. A mentor will also be eligible to request a mentor through the program. Probationary Officers should be assigned a mentor within the Department upon graduation of the Academy, but no later than upon completion of Field Training. Probationary Officers can request a mentor with specific characteristics and background base on their needs. Any Officer can request to be assigned a mentor at any time during their career. The request can include a specification of a mentor familiar with concerns being addressed by the Officer at the time of the request.

If the Chief and the Association reach an agreement on amending this Agreement, the agreement is effective only if the members of the bargaining unit ratify and the City Council approves the agreement.

### Section 15. Family Leave Provisions <sup>27</sup>

### New Family Leave

Members are eligible to receive up to six continuous weeks of New Family Leave at 100% of their compensation after the birth or initial placement of a new child in connection with adoption or foster. The leave must be used within the 12 calendar months following the birth or new placement of a child.

## Receiving Employee Eligibility:

- 1. Birthing and non-birthing parent(s)
- 2. Employee(s) must be listed on the birth certificate or adoption/foster paperwork
- 3. New placement of a child age 17 or younger as an adoption or foster
- Birth or new placement of a child must take place while the employee is actively employed with the City
- 5. Employees requesting parental leave must apply for FMLA as outlined in AD 4.20, Family and Medical Leave Act

### Amount, Time Frame and Duration

<sup>&</sup>lt;sup>27</sup> A22, Sec. 15 Family Leave Provisions – SAPOA proposal 2-26-2021

- 1. A maximum of six continuous weeks of leave paid at 100% of compensation may be taken once within a rolling 12 month calendar year after the birth or initial placement of a child.
- 2. An employee may elect to use New Family Leave prior to, subsequent to or in lieu of any accrued leave.
- 3. Paid holidays taking place while an employee is out on New Family Leave do not extend the period; however, the employee will continue to accrue Annual and Personal Leaves.
- 4. New Family Leave runs concurrently with any FMLA leave entitlement available to the employee.
- 5. Requests, which include the dates that the employee wishes to use New Family Leave, must be received by the HR Department at least 30 days prior to the date the employee expects the birth or new placement of a child (or as soon as possible if the event was not foreseeable).
- 6. HR, whose decision is final, has the right to interpret and deny (or terminate) all New Family Leave requests. New Family Leave requests shall not be unreasonably denied.

## Section 16. Phased Down Study <sup>28</sup>

The Parties agree that during the first six (6) months of the Agreement a Committee shall be formed to be comprised of five members to be determined by the City Manager and five (5) members to be determined by the Association to study the concept of a Phase Down transition program that attempts to benefit both Parties.

A Phase Down transition program not dissimilar to what the City of Houston has in place for the following concepts:

- Allowing officers to take leave and payout of balances for sick, vacation, and exception
  vacation in biweekly amounts(s) until it runs out, with no pay increases and no accruals of
  vacation, exception vacation, sick leave or holidays; and/or
- Lump sum payment(s) spread out over 2 or more years

Shall be referred to the Committee for study and recommendation to the Parties regarding fiscal, legal, staffing and practical implications of full and partial implementation of such a program.

Both Parties agree that should a formal positive recommendation be forthcoming by a majority vote of the Committee and accepted by the City Manager during the first three (3) years of the Agreement, the Parties shall reopen the Agreement for the sole and exclusive purpose of negotiating this issue. It is understood that no other issues shall be a part of this reopener clause.

<sup>&</sup>lt;sup>28</sup> A22, Sec. 16 Phased Down Study – SAPOA proposal 2-26-2021

## Section 17. 14. Preemption

It is expressly understood and agreed that all provisions of this Article shall preempt any statute, Executive Order, local ordinance, City policy or rule, which is in conflict with or is inconsistent and e Texas, and Section. with this Agreement and the procedures developed hereunder, including for example and not by way of limitation, any contrary provisions of Chapters 141, 142, and 143 of the Texas Local Government Code, including but not limited to Sections 141.032 and 142.0015 and Sections

# **ARTICLE 28 Disciplinary Actions**

## Section 1. Authority of the Chief.

The Chief shall have authority to demote and/or suspend not to exceed forty-five (45) calendar days, or indefinitely suspend (as provided for in Chapter 143 of Local Government Code) any Officer for the causes set forth in the Rules and Regulations of the Commission. The Officer may appeal such actions, if any, as provided for herein. Nothing contained herein prevents the Chief and the accused Officer from reaching an agreed settlement on any matter so long as both parties concur in writing in advance of said settlement. Officers suspended for three (3) days or less who appeal the suspension shall not serve the suspension unless a suspension with loss of pay is awarded by an arbitrator.

### Section 2. Contemplated Disciplinary Action.

Prior to any such disciplinary action, the Officer shall be given notice of contemplated disciplinary action by personal service, stating the action or actions contemplated and the reasons therefore, and notifying the Officer that he may rebut the charges to the Chief, either orally, or in writing, within seven (7) calendar days. If the Chief should be unable to secure personal service of the contemplated disciplinary action after due diligence, service may be made by placing the notice in certified mail addressed to the Officer's last known address along with delivery of the statement to the Association, and proof of such service shall be sufficient to provide notice to the Officer of his right to rebut the contemplated disciplinary action to the Chief.

### Section 3. Written Statement of Charges.

After the notice and opportunity for rebuttal provided in the preceding paragraph, the Chief may demote, suspend, or indefinitely suspend an Officer by service in accordance with this Article on the officer of a written statement of charges addressed to the Civil Service Commission. A copy of the disciplinary statement shall be promptly filed with the Human Resources Director of the City.

The written statement shall point out the particular rule or rules alleged to have been violated by the Officer and the specific act or acts alleged to be in violation. In the event of demotion, suspension, or indefinite suspension, the statement informing the officer of disciplinary action and the reason(s) for the action therefore shall also inform the Officer that an appeal may be made had by filing same an appeal in writing with the Human Resources Director, within fifteen (15) calendar days after receipt of said this written statement unless the case is automatically appealed due to alternate service via mail to the officer. <sup>29</sup>

<sup>&</sup>lt;sup>29</sup> A28, Sec. 3 Written Statement of Charges – COSA proposal 2-12-2021 / AGREED

## Section 4. Notice of Right to Appeal.

The Chief or the Chief's authorized designee shall not be required to deliver in person a written statement of charges to the Officer being suspended. The written statement of suspension shall be deemed to have been delivered upon the officer when the written statement (1) is hand-delivered to the suspended Officer by the Chief, the Chief s authorized designee, or by a designated messenger; (2) is delivered to an attorney representing the suspended Officer, or (3) mailed as provided below. A written statement is deemed delivered to the Officer's attorney by handing it to the attorney or by leaving it with another attorney in the attorney's office or a member of the attorney's staff, or by delivering it by any other means that the attorney consented to in writing. If the City attempts in good faith to deliver the written statement as provided in this Section herein, but the such attempts are unsuccessful, the written statement may be mailed by certified mail to the last known address of the suspended Officer. Service is complete upon mailing and the suspension shall be automatically appealed to arbitration as of the date of mailing Officer or Officer's attorney has thirty (30) calendar days to appeal after service by mail, or the matter will be dismissed. The Officer is still required to file a proper notice of appeal not less than ten (10) calendar days prior to the arbitration date.

### Section 5. Arbitrator Defined.

For the purposes of this Article, the term arbitrator shall mean the same as a third-party hearing examiner as referred to in Chapter 143 of the Local Government Code. Appeal from demotion, suspension or indefinite suspension shall be decided by one (1) arbitrator, selected according to this agreement. Upon receiving an appeal from the Officer, the Human Resources Director shall act promptly to notify the Association, the Chief, and the City Manager of the appeal.

### Section 6. Arbitration Selection and Scheduling.

The counsel for the Officer and the counsel for the Chief of Police shall attempt to mutually agree on an arbitrator. If the parties fail to agree on an arbitrator within fourteen (14) calendar days after the appeal is filed, the Human Resources Director shall within five (5) business days from the expiration of the fourteen (14) calendar days request a list of seven (7) qualified neutrals from the American Arbitration Association. The parties may mutually agree on one of the seven (7) neutrals. If they do not so agree, the parties shall alternatively strike the names on the list within seven (7) calendar days after receipt of the list, and the remaining name shall be the arbitrator. All parties shall act to complete the selection process at the earliest possible date. The arbitrator shall be promptly notified of his selection. The parties will not have ex parte communication with the arbitrator. Communication with the arbitrator will be through the counsel for the Chief of Police and the counsel for the Officer jointly.

### Section 7.

<sup>&</sup>lt;sup>30</sup> A28, Sec. 4 Notice of Right to Appeal - COSA proposal 2-12-2021 / SAPOA counter 2-26-2021

The hearing shall be commenced, but need not be completed, within ninety (90) calendar days of the arbitrator's selection. Delay in commencement of the hearing within these time periods may occur due to unavoidable conflicts between the <u>a</u>rbitrator and the parties' schedules, or by mutual agreement of parties and for no other reason. However, if the arbitrator selected cannot commence the hearing within ninety (90) calendar days from his selection, and there is no agreement to extend the hearing to a later date by the parties, the parties shall attempt to agree on a substitute arbitrator. If the parties cannot agree upon a substitute within seven (7) calendar days of so learning, another arbitrator shall be selected from a new list of seven (7) names promptly requested from the American Arbitration Association, according to the procedure set out herein. The arbitrator shall make an award within thirty (30) calendar days of the close of evidence or after receipt of brief's if any in arbitration hearings, and within seven (7) calendar days of the close of evidence in expedited arbitration hearings under 143.057 of the Local Government Code. Post hearing briefs shall only be permitted in standard arbitration hearings, and must be mailed to the arbitrator within such time as is agreed to by the parties, or as directed by the arbitrator.

### Section 8.

A stenographic transcription of the proceedings shall be made only upon written agreement of the parties prior to the commencement of the hearing. Should there be no agreement, the party desiring the transcript may have the transcript made at its sole expense.

[COSA Proposal Sec. 9]

### Section 9.

The arbitrator may not substitute his/her judgment for the judgment of the Chief on discipline. The award of the Arbitrator shall state whether the Chief's original written statement and charges are or are not supported by substantial evidence considering the reliable and probative evidence in the record as a whole which particular factual charges he finds to be true, if any, and the particular rules he finds such conduct to have violated, if any. Where the charges are upheld, the award shall state whether the discipline imposed is upheld, or whether some lesser discipline is substituted. This agreement authorizes an arbitrator to reduce an indefinite suspension to a period greater than 45-days.

[SAPOA Counter Sec. 9]

## Section 9.

The award of the Arbitrator shall state whether the Chief's original written statement and charges are or are not supported by a preponderance of the evidence considering the reliable and probative evidence in the record as a whole which particular factual charges he finds to be true, if any, and the particular rules he finds such conduct to have violated, if any. Where the charges are upheld,

<sup>&</sup>lt;sup>31</sup> A28, Sec. 9 – COSA proposal 2-12-2021

the award shall state whether the discipline imposed is upheld, or whether some lesser discipline is substituted. This agreement authorizes an arbitrator to reduce an indefinite suspension to a period greater than 45-days. If the arbitrator holds the Chief's original written statement and charges are supported by a preponderance of the evidence considering the reliable and probative evidence in the record as a whole, the arbitrator may mitigate the Chief's disciplinary action only if the disciplinary action is not consistent with comparative disciplinary actions issued by the Chief against other similarly situated officers. The Chief may present evidence of prior relevant sustained disciplinary action against the Officer that the Chief used to determine the disciplinary action if the Chief outlined the prior disciplinary action in the original written statement and charges. This agreement authorizes an arbitrator to reduce an indefinite suspension to a period greater than 45-days. <sup>32</sup>

### Section 10.

The following rules shall govern the conduct of arbitration hearings under this Section, and of certain preliminary matters.

- A. Both parties shall provide, at least twelve (12) calendar days prior to the date of the hearing, the names and addresses of witnesses expected to be called at the hearing. In the absence of good or excusable cause, the arbitrator may exclude the testimony of a witness upon the failure of a party to disclose such a witness. The parties, in writing, may request discovery from each other concerning the case. Should the opposing party not agree to provide the requested information within seven (7) calendar days of the request, the request shall be deemed denied. The requesting patty may then apply to the Arbitrator who shall order such discovery as is appropriate to the nature of the case, consistent with, but not bound by, the rules of discovery in Texas civil cases. In considering the application, the arbitrator shall consider the burden and expense of producing the information, the need of the requesting party, the amount of time available prior to the hearing, and such other matters as he may deem material. In no event shall discovery be requested within seven (7) calendar days prior to the hearing.
- B. The <u>a</u>rbitrator shall have the power to subpoena witnesses. Where the subpoena request is not opposed by a party, the Human Resources Director shall issue the subpoena in the name of the Arbitrator and such issuance shall be considered the act of the arbitrator. If the subpoena is opposed, the moving party shall apply to the arbitrator for issuance of the subpoena. The City will serve subpoenas on any City employee; otherwise the party issuing the subpoenas shall be responsible for obtaining service.

C. In all hearings under this Section, the City shall prove its case by a preponderance of the evidence.<sup>33</sup>

C. D. All hearings shall be public unless it is expressly agreed in writing by the parties that the hearing shall be closed to the public. In any event, the final decision of the arbitrator shall be public, although public announcement may be reasonably delayed upon request of the parties.

<sup>&</sup>lt;sup>32</sup> A28, Sec. 9 – SAPOA <u>counter</u> 2-26-2021

<sup>&</sup>lt;sup>33</sup> A28, Sec. 10 (C) - COSA proposal 2-12-2021 / Note: SAPOA can agree to deletion IF in SAPOA proposed Sec. 9

<u>D.</u> E. Unless otherwise provided in this Agreement, the conduct of the hearing shall be governed by the rules of the American Arbitration Association.

### Section 11.

Unless Except otherwise provided in this Agreement, the <u>a</u>rbitrator shall have all those powers and only those powers vested in the Commission under Chapter 143 of the Local Government Code and the Commission Rules, <u>with respect to suspensions</u>, <u>indefinite suspension</u>, and <u>demotions</u>, <u>with the sole exception of the power to amend such rules</u>. <sup>34</sup>

### Section 12.

Any notice or statement required to be filed by the Chief of Police or the Officer in a disciplinary proceeding under Chapter 143 of the Local Government Code, under Commission Rules, or under this Agreement, shall be filed with the Human Resources Director of the City. 35

### Section 13.

Hearings conducted by the Commission shall be in accordance with Chapter 143 of the Local Government Code except that the Commission may not substitute its judgment for the judgment of the Chief on discipline. <sup>36</sup>

### Section 14.

Unless otherwise provided in this Agreement, with respect to demotions, suspensions, and indefinite suspensions as defined in Chapter 143 of the Local Government Code the Officer shall have such right to appeal the arbitrator's decision to district court as he is given in Chapter 143 of the Local Government Code to appeal the Commission's decision, and no greater right.

### Section 15.

Unless otherwise provided in this Agreement, in cases of conflict, the provisions of this Agreement will control over Chapter 143 of the Local Government Code, and any other civil service provision or rule, and American Arbitration Association Rules; and Chapter 143 of the Local Government Code, and any other civil service provision, and Civil Service Rules promulgated pursuant to it shall control over American Arbitration Association Rules. Once an Officer receives a formal notification from Internal Affairs, the officer may initiate a written request to the Chief to waive the normal investigative track through Internal Affairs for the investigation to be submitted to an expedited disciplinary track, however in no event can the expedited disciplinary track be requested within thirty (30) sixty (60) calendar days of the expiration of the complaint's one-hundred-and-eighty (180) calendar day timeline in

<sup>&</sup>lt;sup>34</sup> A28, Sec. 11 – COSA proposal 2-12-2021?

<sup>&</sup>lt;sup>35</sup> A28, Sec. 12 – COSA proposal 2-12-2021 / AGREED

<sup>&</sup>lt;sup>36</sup> A28, Sec. 13 – COSA proposal 12-12-2021

Chapter 143 of the Local Government Code. Both the Officer and the Chief must agree to submit a matter to the expedited disciplinary track for an expedited disciplinary finding. An expedited disciplinary finding is an agreement by the Officer and the Chief that disciplinary action is warranted and enacted, but did not proceed through the conventional track. Any disciplinary action resulting from the expedited disciplinary track must be agreed upon by the Officer and the Chief, and must be enacted within thirty (30) calendar days of the parties' agreement to expedite the disciplinary process, but under no circumstances later than the time limitation as expressed and proscribed in Chapter 143 of the Local Government Code, as applicable. Absent an agreement by both the Chief and the Officer, the matter will continue through the regular investigative procedure. <sup>37</sup>

## [COSA proposal Sec. 16]

### Section 16.

Notwithstanding any other provision of this Agreement, the Chief shall have authority to suspend an Officer for a period of not more than ninety (90) calendar days, or implement an agreed disciplinary action for any length of suspension only where the Officer agrees to the disciplinary action in writing. An agreed disciplinary action is an agreement between the Officer and the Chief that may include, but is not limited to, any one, or combination of, a suspension, demotion, or non-disciplinary actions such as professional counseling, re-training, or re-assignment. The Officer shall have no right to appeal such agreed disciplinary actions, and no administrative or judicial body shall have power to review such a suspension or alter the terms of the Agreement. 38

## [SAPOA proposal Sec. 16]

### Section 16.

Notwithstanding any other provision of this Agreement, the Chief shall have authority to suspend an Officer for a period of not more than one hundred and twenty (120) ninety (90) calendar days, or implement an agreed disciplinary action only where the Officer agrees to the disciplinary action in writing. An agreed disciplinary action is an agreement between the Officer and the Chief that may include, but is not limited to, any one, or combination of, a suspension, demotion, or non-disciplinary actions such as professional counseling, re-training, or re-assignment. The Officer shall have no right to appeal such agreed disciplinary actions, and no administrative or judicial body shall have power to review such a suspension or alter the terms of the Agreement. <sup>39</sup>

## Section 17.

Any deadline or time restrictions set out in this Agreement with respect to disciplinary proceedings may be modified by written agreement of the parties. However, neither party may be compelled to waive its right to insist upon the deadline and time restrictions provided by the Agreement.

<sup>&</sup>lt;sup>37</sup> A28, Sec. 15 – COSA proposal 2-12-2021/ **AGREED** 

<sup>&</sup>lt;sup>38</sup> A28, Sec. 16 – COSA proposal 2-12-2021

<sup>&</sup>lt;sup>39</sup> A28, Sec. 16 – SAPOA counter 2-26-2021

### Section 18.

Officers suspended up to a maximum of forty-five working days may, at the Chief's discretion, forfeit either accumulated compensatory time, vacation, bonus time or holiday leave equal to the suspension. Approval of forfeiting time by the Chief shall not be unreasonably withheld and may only be denied because of a consistent overall pattern of substandard performance. The Officer shall have ten (10) calendar days from receipt of notice of the suspension to decide whether or not he wishes to forfeit accumulated leave or exercise his appeal rights pursuant to Chapter 143 of the Local Government Code or the Grievance and Arbitration Procedures of this Agreement. The provisions of this Section shall apply solely to suspensions which are agreed to by the Officer, and no appeal to the Commission or to arbitration may be instituted on suspensions where the Officer has forfeited accumulated compensatory, vacation, bonus time or holiday leave pursuant to the terms of this Article.

[COSA proposal Sec. 19]

### Section 19.

A. Misconduct. Except as provided in this section of this Article, the Chief and City are precluded from the introduction of evidence or otherwise complaining of any acts or occurrences earlier than the one hundred and eightieth (180th) calendar day immediately preceding the date on which the Chief suspends or demotes the Officer. The Chief may introduce evidence or otherwise complain of any felony Penal Code violation, a felony violation of the Controlled Substance Act, a Class A or B Misdemeanor committed by an officer so long as the evidence or complaint is filed within one hundred and eighty (180) calendar days of the Department's first knowledge of the act, provided however, that the statute of limitation for criminal judicial action against the officer involved has not expired. In the original written statement of charges and in any disciplinary hearing conducted pursuant to this Agreement, the Chief may not complain of an act that is discovered earlier than the 180th day preceding the date the Chief suspends the Officer. The act is deemed discovered when a supervising officer of the rank of Sergeant or above has actual knowledge of the act.

This amendment language shall not be applied retroactively. Only upon written notice in the original written statement of the Chief may any act or occurrence be admissible in a disciplinary hearing in accordance with this section.

[SAPOA counter Sec. 19]

### Section 19.

A. Minor Misconduct. Minor misconduct is defined as slight variances to Department policies, procedures, responsibilities, and expectations. Except as provided in this section of this Article,

<sup>&</sup>lt;sup>40</sup> A28, Sec. 19 (A) – COSA proposal 2-12-2021

the Chief and City are precluded from the introduction of evidence or otherwise complaining of any acts or occurrences earlier than the one hundred and eightieth (180th) calendar day immediately preceding the date on which the Chief suspends or demotes the Officer.

B. Major Misconduct. Major Misconduct is significant variances to Department policies, procedures, responsibilities, and expectations to include serious behavior infractions, excessive/unnecessary use of force, acts showing lack of good moral character, discrimination, acts causing inability to testify in court, and use of unauthorized intoxicants on duty. In the original written statement of charges and in any disciplinary hearing conducted pursuant to this Agreement, the Chief may not complain of an act that is discovered earlier than the 180th day preceding the date the Chief suspends the Officer. The act is deemed discovered when a supervising officer of the rank of Sergeant or above has actual or constructive knowledge of the act.

The Chief may introduce evidence or otherwise complain of any felony Penal Code violation, a felony violation of the Controlled Substance Act, a Class A or B Misdemeanor committed by an officer so long as the evidence or complaint is filed within one hundred and eighty (180) calendar days of the Department's first knowledge of the act, provided however, that the statute of limitation for criminal judicial action against the officer involved has not expired. This amendment language shall not be applied retroactively. Only upon written notice in the original written statement of the Chief may any act or occurrence be admissible in a disciplinary hearing in accordance with this section. 41

- B. Certain Criminal Conduct. The Chief may order an indefinite suspension based on an act classified as a felony or Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the Chief intends to order an indefinite suspension after the 180-day period, the Chief must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred. <sup>42</sup>
- <u>C. Evidence.</u> Solely to aid the Commission or arbitrator in the assessment of appropriate discipline and not to prove a charge of a violation of Civil Service Rules or for any other purpose, the Chief and the City may introduce evidence of <u>any prior disciplinary actions</u> which have not been set aside on appeal as follows: 43
- A. Where the Chief's original written charges include alleged violations of Civil Service Rules constituting acts of intentional violence, the Chief and the City may introduce prior discipline on such other violations found to have been committed within five (5) years immediately preceding the date of said written charges;
  - B. Where the Chief's original written charges include alleged violations of Civil

<sup>&</sup>lt;sup>41</sup> A28, Sec. 19 (A) – SAPOA counter 2-26-2021

<sup>&</sup>lt;sup>42</sup> A28, Sec. 19 (B) – COSA <u>proposal</u> 2-12-2021 / <u>AGREED</u>

<sup>&</sup>lt;sup>43</sup> A28, Sec. 19 (C) – COSA <u>proposal</u> 2-12-2021

Service Rules concerning drug or alcohol abuse, any prior discipline on such violations found to have been committed within ten (10) years immediately preceding the date of said written charges;

- C. Where the Chief's original written charges allege acts of incompetence, all prior discipline for acts of incompetence may be introduced by the Chief or the City so long as adequate records are maintained in accordance with Section 20 below, at the time of the act for which discipline was assessed; and
- D. Where the Chief's original written charges allege a violation of any other Civil Service Rule, the Chief and the City may introduce prior discipline for a violation(s) of the same rule within two (2) years immediately preceding the date of said written charges, so long as adequate records are maintained in accordance with Section 20 below, at the time of the act for which discipline was assessed.
- E. Upon execution of this Agreement, suspensions of three (3) working days or less that were not appealed by the Officer shall be automatically reduced to a written reprimand two (2) years—after the date the suspension was served on the Officer if the Officer did not have a sustained complaint for the same rule within two (2) years from the date the suspension was served on the officer. Suspensions that were appealed to the Commission or Arbitrator by the Officer are not eligible to be reduced to a written reprimand under this Section. The original suspension paperwork sent to the Commission will reflect the conditions of this Section to reduce the applicable suspension to a written reprimand. The reduction of any suspension contained within this subsection does not qualify for any form of reimbursement to the employee.

### Section 20.

The City shall develop records, which, to the fullest extent possible, quantify the work done by each Officer in each assignment. Such records shall be available by assignment upon specific request of Officers appealing disciplinary actions or their representatives.

#### Section 21.

Section 143.056 of the Local Government Code regarding procedures after felony indictment and certain misdemeanor complaints shall be modified to provide:

- A. The Officer shall has the burden to provide written notice to the Chief's office when the Officer's criminal matter is resolved. Should the Chief fail to charge the Officer with a violation of Civil Service Rules within thirty (30) calendar days following written notice by the Officer of the Officer's acquittal or dismissal of the criminal charges, the officer shall be reinstated with all back pay and benefits; and 44
- B. In the event an Officer has been demoted or suspended, either temporarily or indefinitely, for any action which results in the Officer being indicted for a felony or charged with

<sup>&</sup>lt;sup>44</sup> A28, Sec. 21 – COSA proposal 2-12-2021 / SAPOA counter 2-26-2021

a misdemeanor of Class B or above, no further action may be taken on the Officer's appeal until the completion of trial on the merits on those charges; except that a hearing on an officer's appeal may be initiated prior to completion of trial on the merits by mutual agreement between the City and the Officer. Delay of an appeal pending the results of criminal proceedings as specified above shall apply both to appeals to arbitration and appeals to the Commission pursuant to this Article.

## Section 22.

Pursuant to Section 17, 19 and 21, the Chief or his counsel and the Officer and his counsel may mutually agree in writing to extend the 180-day deadline for disciplinary proceedings by delaying the execution of the disciplinary written statement of charges, if any, to a date no later than thirty (30) calendar days after the final adjudication of the criminal charge pending. By entering into a mutually agreeable written agreement, neither party intends to create, nor does a written waiver directly or indirectly create a past practice.

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# **ARTICLE 29 Internal Security Interview Procedure**

## Section 1. Investigations Through The Chain Of Command.

Minor allegations of misconduct made against officers which are of the type set out in the Complaint Matrix contained in the General Manual shall be investigated within the Officer's chain of command within twenty-one (21) calendar days of receipt of the written complaint. The Captain of the station/section will conduct the investigation under procedures and guidelines set out in the General Manual. Such an investigation of the Officer shall be confined to the written complaint, and that complaint only. If the Officer is the rank of Captain or above, or if the Officer has no Captain in their chain of command, the Officer's Division Commander, Bureau Commander, or Chief of Police or designee will investigate. Suspensions, if imposed, may be for up to three (3) calendar days to five (5) working days (maximum 40 working hours) if approved by the Chief. If the accused Officer does not agree with the final terms of the contemplated disciplinary decision within five (5) calendar days, the case will be forwarded to the Internal Affairs Unit for further investigation. Suspensions agreed to by an Officer may not be appealed to or altered by the Commission, an arbitrator, or by any court. Investigations through the chain of command do not entitle the Officer to have an attorney present during interviews with his commanding officer, but nothing herein prohibits an officer from seeking advice from an attorney or an Association representative provided it is within the five (5) day time limit. The Officer will be advised in writing of the procedures applicable to the line complaint investigative process by the Captain prior to providing a report or response. Officers shall have a reasonable opportunity to consult with counsel before writing a response, statement, or report resulting from a complaint. The term "complaint" has used in this article does not include questions about performance of duty raised by the Supervisor or fellow Officers. 45

### **Section 2. Internal Affairs Investigations.**

This procedure shall apply to all non-criminal investigations of misconduct by officers except investigations through the chain of command conducted under Section 1 above.

A. An interview of the charged Officer shall take place at a location designated by the investigating Officer, usually at the police facility to which the Officer is assigned or the Internal Affairs Office. If the Officer is required to complete written interrogatories the Officer must do so at the facility designated by the investigating Officer, and the Officer may not remove the interrogatories (or any copy of the interrogatories) from the designated facility, at the Officer's request, such interrogatories shall be provided to the officer on a computer disk so that the officer may complete such interrogatories at a location other than a police facility. The Officer must return the completed interrogatories in accordance with a written agreement between the officer and the investigator in charge of the investigation. An Officer who requests to complete the interrogatories in this manner will do so during their off duty time and will not be compensated by the Department in any way. When the interrogatories

<sup>&</sup>lt;sup>45</sup> A29, Sec. 1 Investigations Thru Chain Of Command – COSA proposal 2-12-2021 / SAPOA counter 2-26-2021

are completed, the Officer shall return the computer disk and their responses to the investigator in charge of the investigation for review and clarification by either party. The Officer will sign the printed copy of the report in the presence of the investigator. 46

B The Officer shall be informed of the rank, name and command of the Officer in charge of the investigation, and the identity of all persons present during the interview. If an Officer is directed to leave his post and report for interview to another command, the Officer's assigned command shall be promptly notified of the Officer's whereabouts.

## [COSA proposal Sec. 2, Subsection C]

C. The Officer under investigation shall be informed <u>twenty-four (24)</u> forty eight (48) hours prior to being interrogated or asked to otherwise respond to an investigation of the general nature of the investigation, and sufficient information to reasonably apprise the officer of the allegations shall be provided; the Officer shall be allowed to review but not copy <u>body worn camera recordings involving the incident verbatim or photocopy any complaints, affidavits, other written statements, GPS/AVL readouts, video recordings, audio recordings, and photographs, which have been gathered as part of the administrative investigation. The Officer shall not release the provided information to any person other than his attorney or representative. <sup>47</sup></u>

## [SAPOA counter proposal Sec. 2, Subsection C]

C.

- (1) The Officer under investigation shall be informed <u>a reasonable period of time</u> fortyeight (48) hours prior to being interrogated or asked to otherwise respond to an investigation of the general nature of the investigation, and sufficient information to reasonably apprise the officer of the allegations shall be provided;
- When the Officer arrives for the interview, the Officer shall be allowed to review but not copy verbatim or photocopy any complaints, affidavits, other written statements, GPS/AVL readouts, video recordings, audio recordings, and photographs, which have been gathered as part of the administrative investigation. The Officer shall not release the provided information to any person other than his attorney or representative. 48

<sup>&</sup>lt;sup>46</sup> A29, Sec. 2 (A) – COSA proposal 2-12-2021 / AGREED

<sup>&</sup>lt;sup>47</sup> A29, Sec. 2 (C) – COSA proposal 2-12-2021

<sup>&</sup>lt;sup>48</sup> A29, Sec. 2 (C) – SAPOA counter 2-26-2021

### [COSA proposal Sec. 2, Subsection D]

D. The interview/interrogatories shall be completed with reasonable dispatch. Reasonable respites shall be allowed. Time shall be provided also for personal necessities, meals, telephone calls, and rest periods as are deemed necessary. Except in exigent circumstances where the seriousness of the complaint warrants an extended interrogation, or when the complaint will expire within sixty (60) calendar days, an Officer shall not be required to submit to any single interview/interrogatories for longer than eight (8) six (6) hours not including the time to review body worn camera footage. The interviewing Officer shall advise the Officer being interviewed of an estimated time for the interview process. Interview sessions may be held on consecutive days until the interview process is completed. Provisions in Subsection A regarding the removal of interrogatories do not apply to this subsection.

## [SAPOA proposal Sec. 2, Subsection D]

- D. The interview/interrogatories shall be completed with reasonable dispatch. Reasonable respites shall be allowed. Time shall be provided also for personal necessities, meals, telephone calls, and rest periods as are deemed necessary. Except in exigent circumstances where the seriousness of the complaint warrants an extended interrogation, or when the complaint will expire within sixty (60) calendar days, an Officer shall not be required to submit to any single interview/interrogatories for longer than eight (8) six (6) hours. The interviewing Officer shall advise the Officer being interviewed of an estimated time for the interview process. Interview sessions may be held on consecutive days until the interview process is completed. Provisions in Subsection A regarding the removal of interrogatories do not apply to this subsection. Subsection.
- E. The Officer shall not be subjected to any offensive language, nor shall he be threatened with transfer, dismissal or other disciplinary punishment. No promise of reward shall be made as an inducement to answering questions. Nothing herein is to be construed so as to prohibit the investigating Officer from informing the Officer under investigation that this conduct can become the subject of disciplinary action resulting in disciplinary punishment.
- F. In all cases where an Officer is to be interviewed concerning an alleged act which, if proven, may result in any disciplinary action, the Officer under investigation shall be afforded a reasonable opportunity and facilities to contact and consult privately with an attorney of his own choosing or a representative of the Association before being interviewed. An attorney of his own choosing or a representative may be present during the interview. A representative may not be a Police Officer who is related to the respondent, or a supervisor with involvement in the incident being investigated. Such representative may not participate in the interview except to counsel the Officer, or to assert any rights afforded to the Officer under this article in a manner which does not impair the ability of the investigator to conduct the interview and obtain information directly from the Officer. At any time during the interview the Officer under investigation may request to consult with his attorney or representative in private, prior to continuing the interview, provided that the

<sup>&</sup>lt;sup>49</sup> A29, Sec. 2 (D) – COSA <u>proposal</u> 2-12-2021

<sup>&</sup>lt;sup>50</sup> A29, Sec. 2 (D) – SAPOA counter 2-26-2021

investigator may impose reasonable limits on such conferences in order to complete a meaningful investigative interview and to obtain a written statement or response from the Officer in the Officer's own words.

- G. If an Officer is or maybe likely to be placed under arrest, that is if the Officer under investigation is a suspect or the target of a criminal investigation, the Officer shall be given his rights pursuant to the Miranda Decision. Nothing in this subsection shall be construed to limit the authority of the Chief to conduct administrative investigations nor shall anything in this subsection be construed to relieve the Officer of his obligation to fully cooperate with said investigations, to comply with the Rules and Regulations and Procedures of the San Antonio Police Department, or to provide thorough, complete and truthful responses to requests for written statements and written interrogatories in connection with said administrative investigations. In all investigations where the Officer is subject to a companion or concurrent criminal investigation, the Department shall ensure that any officer's statement gathered as part of the administrative investigation shall not be released to the criminal investigating entity, except as required by a subpoena or required to be disclosed by law or Court decision.
- H. The Officer under investigation shall be given an exact copy of any written statement he may execute.
- I. The refusal by an Officer to answer pertinent questions concerning any administrative matter may result in disciplinary action.
- J. An Officer shall have the right to have the interview tape or digitally recorded, provided the Officer furnishes the tape and the recorder and advises all parties of the recording prior to the beginning of the interview session. The tapes or digital file shall remain in the custody of the Internal Affairs Unit of the Police Department but shall be available for review by the Officer or the Officer's designated representative in the event the interview may result in disciplinary action, or a grievance.
- K. No conversation between an Officer and an investigating officer may be recorded without disclosure prior to the conversation by the party making the recording, that it will be recorded. Prior to entering the Internal Affairs office, an Officer must disclose the existence of any recording device in his possession or be subject to disciplinary action. The Chief may authorize the wearing of a concealed recording device during any criminal investigation which may involve an Officer.
- L. A polygraph examination may be required of an Officer by the Chief only in the strictest confidence and where the complainant, and any complaining witnesses who give a written statement have been examined and found wholly truthful by a licensed examiner. The fact that an examination is ordered or administered and the results thereof shall not be disclosed by the Chief or the examiner to any person, except following execution of a written agreement between the Chief and the examined Officer.
  - M. The Chief's office shall provide written notice, in a sealed envelope, to the

individual Officer of the final status of any complaint filed with the Internal Affairs Unit where the Officer in question had to respond in writing to the complaint.

N. The results of a formal investigation will be forwarded to the Advisory Action Board for recommendations.

## Section 3. Chief's Complaint and Administrative Review Advisory Action Board.<sup>51</sup>

Chief's <u>Complaint and Administrative Review Advisory Action</u> Board (<u>CCARB CAAB</u>) as used in this section shall mean the combined Police portion of the <u>Advisory Action Complaint and Administrative Review Board and the Citizen's portion of the <u>Complaint and Administrative Review Advisory Action</u> Board.</u>

- A. The Police portion of the Chief's Advisory Action Board CCARB shall consist of seven voting members: a Deputy Chief who shall serve as chairperson; one Captain; one Lieutenant; one Sergeant; one Detective Investigator; and two Patrol Officers. The members shall be appointed by the Chief. Those members shall serve for one hundred and eighty (180) calendar days.
- B. Except as specifically provided for in this article, the Chief's Advisory Action Board (CAAB) will be conducted in accordance with the San Antonio Police Department's General Manual.
- B. C. The Citizen Advisory Action Board shall act as the Citizen's portion of the CCARB.
- This Board shall be comprised of seven (7) appointees selected from a panel of fourteen (14) available members appointed as set fo1th below. Of the initial seven (7) appointees, 3-4 appointees shall be replaced following the expiration of 180-days from the date of their first Board meeting with 3-4 members of the panel of fourteen (14) not having served on the Board in the previous 180-days. The rotation of Board members shall continue until such time as all fourteen (14) members have served on the Board and after such time shall continue with no Board appointee serving for more than two (2) consecutive 180-day periods. The Chairman shall be entitled to alter the rotating list in order to coordinate the schedules of the participants. The Chairman may approve agendas for matters not involving the use of force, bodily injury, or unlawful search or seizure, in instances where workload for the Board makes it necessary, which do not require the attendance of the citizen Board members. The Chairman shall schedule any complaint for civilian member participation, upon request by the Officer or the complainant; if it is reasonably possible to do so based on the workload and availability of civilian members. Notice shall be given to the President of the Association. It is understood and agreed that the civilian members shall, nevertheless, be required to hear the full range of disciplinary cases and controversies presented to the Board, in order to develop an accurate sense of context and fairness.

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<sup>&</sup>lt;sup>51</sup> A29, Sec. 3 Chief's Advisory Action Board – COSA proposal 2-12-2021 / AGREED

- 2. Members of the panel for the Citizen Advisory Action Board shall be selected by the City Council from a list of names provided by the City Manager. Prior to providing names to the Council, the City Manager shall solicit applications from qualified citizens of good character, and objective ability, and shall recruit qualified individuals as necessary to have a sufficient list for consideration. The City Manager shall determine whether or not to recommend each of the individuals who apply. In addition, the Chief of Police shall determine whether or not to recommend each of the individuals. The input and recommendation of the San Antonio Police Officer's Association shall also be obtained as to each of the individuals. The City Council shall receive a compilation of the applicants along with the separate recommendations by the City Manager, the Chief of Police, and the Association. Each party agrees that the selections and the final list shall be representative of the diversity of the community. The City Council may select a new member to replace anyone removed from the panel by selecting from any remaining names, or from a new list provided in accordance with the forgoing provisions in the event of vacancies.
- 3. Citizens appointed to serve on the panel shall meet the minimum requirements for eligibility established under state statute for service on the Fire and Police Civil Service Commission and shall take an oath of office as members of the panel. In addition, no person shall be appointed to serve on this panel who has been indicted for a felony or a crime of moral turpitude, or officially charged with a Class A or B Misdemeanor. Members of the panel shall serve at the pleasure of the City Council, which may remove them, or replace them at any time, with or without cause. Members shall have no right to the position, and shall not be entitled to removal proceedings or a hearing. If not removed or replaced, a member shall serve for a two (2) year period. The City Ethics ordinance shall apply to all members of the Citizen Advisory Action Board.
- 4. Appointment and selection for the meetings of the Board shall be accomplished in sufficient time to be able to provide each appointee with not less than twenty-four (24) hours of training, including orientation work at Professional Standards, and one shift on the ride along program. The responsibility for the training of each new member of the panel shall fall upon the Commander of the Professional Standards Section.

## C. Right to Privacy

1. 5 An accused Officer has a right to privacy and all members of the CAAB shall respect that right to privacy, and shall have a duty to maintain the confidentiality of privileged information. Each member of the Uniform and Citizen Board shall sign a pledge of confidentiality, agreeing to maintain the right of privacy as to privileged matters under applicable law. Any violation of this right shall be grounds for disqualification or removal from the panel, as set forth below, "Right to privacy" shall mean only the right of any accused Officer of the Department to have the allegations, facts, testimony and evidence brought before the Board held in confidence by the members hearing the case, and shall not extend to include any public information or information imparted to the Board members from public information, or from individuals not officially connected to the Internal Security process. The Chairman shall keep and maintain all records of the Board, and no members shall have or maintain any records other than during the meetings of the Board, or on Department premises, in connection with their official duties. This article shall not be interpreted to impair or effect the right of any person, including the citizens on

the Board, to make report of facts to the Chief of Police, the District Attorney, or the FBI, or to testify under subpoena, the rules of discovery, or order of any court; nor shall this article be interpreted to impair or affect the rights of any Officer under *Garrity vs. New Jersey* or its progeny and *Miranda vs. Arizona* or its progeny

- 2. 6. If any member of the Citizen Advisory Action Board is accused by an Officer of a violation of the right to privacy, the Civil Service Commission shall convene and if a determination is made that a member of the Citizen Advisory Action Board violated an Officer's right to privacy, then the Civil Service Commission may remove that member. If the breach of privacy involves a direct report of confidential information by the member to the public or the press, removal by the Civil Service Commission shall be mandatory. In any event, the Civil Service Commission shall send a report of its findings and action to the City Council. The purpose of these hearings shall be to protect the interests of accused Officers and the complainants, and shall not give rise to any rights on the part of the member accused of a breach of right to privacy.
- D. Except as specifically provided for in this article, the CCARB will be conducted in accordance with the San Antonio Police Department General Manual.
- <u>E.</u> D. All members of the <u>Chief's Advisory Action Board</u> <u>CCARB</u> shall be given the opportunity to review each case that will be presented for consideration subject to the Chief's approval of exceptions, based on workload, as noted above.
- F. E. The Chairperson of the Chief's Police Advisory Action Board CCARB shall be responsible for the maintenance of the confidentiality of all files submitted for review by the CAAB.
- G. F. The Chairperson of the CCARB CAAB, on recommendation from any member of the CCARB CAAB may elect to hear testimony from complainants or responding Officers. Attendance to these boards meetings where testimony is requested are entirely voluntary and complainants or responding Officers may elect to remove themselves at any stage of the questioning by either board without fear of reprisal. The Chairperson of the CCARB CAAB shall determine the manner in which all meetings shall be conducted and shall be the determining factor as to the hearing of testimony or attendance by any person. No responding Officer or complainant shall have the right to be represented by counsel, but may be accompanied by an observer.
- H. G. Each board shall make independent recommendations and forward these recommendations to the Chief of Police. Such recommendations are advisory only and are not binding on the Chief. The Citizen Advisory Action Board may not conduct a separate independent investigation but may recommend to the Chief of Police that further investigations should be undertaken.
- J. H. Any matter which is brought before the <u>CCARB</u> CAAB, where a final ruling by the Chief of Police has occurred, the Chief of Police shall direct the Commander of the Professional Standards Section to notify the Complainant(s) and accused Officer(s) as to the final disposition of the case within twenty-one (21) calendar days.

# Section 4. <u>Crash Evaluation and Review Board</u> Chief's City Vehicle Accident Advisory Action Board. 52

- A. The Chief's Advisory Action Board as described in Section 3 of this Article will no longer review cases involving City motor vehicle accidents. All cases involving City motor vehicle accidents previously assigned to the Chief's Advisory Action Board Crash Evaluation and Review Board will be assigned to the Chief's City Vehicle Accident Advisory Action Board in accordance with this section.
- B. The City Vehicle Accident Advisory Action Crash Evaluation and Review Board will consist of one (1) Captain, one (1) Sergeant, one (1) Detective Investigator and two (2) Patrol Officers appointed by the Chief. The Captain shall serve as chairperson. Members shall serve from January through June or from July through December of each calendar year.
- C. Except as specifically provided for in this Article, the Chief's City Vehicle Accident Advisory Action Board will be conducted in accordance with General Manual provisions and the Chief's Advisory Action Board outlined in this Article.
- D. An Officer will be retrained for an accumulation of points or the number of accidents at the Chief's discretion. The occurrence of two chargeable accidents within a two-year period will serve as a baseline for the Chief or the Board to review individual cases and training needs. Ultimately, retraining will be determined on the basis of severity of the accidents, which may drastically differ from one case to another.

52 A29, Sec. 4 Chief's City Vehicle Accident Advisory Action Board – COSA proposal 2-12-2021 / AGREED

# ARTICLE 33 Educational Incentive Pay

### Section 1. Degree Required.

Educational Incentive Pay shall be provided immediately to Officers who qualify for such payment by furnishing documented proof of an Associate's, Bachelor's, Master's or Doctorate Degree to the Training Academy. Officers who hold Associate's, Bachelor's, Master's Degree or Doctorate shall receive Educational Incentive Pay. All college hours must come from an "Accredited College or University." For purposes of this Agreement, an institution of higher education must be accredited by a state education department, or by either the Southern Association of Colleges and Schools or a similar regional association recognized by the United States Department of Education. In cases where the validity of a college or university accreditation is raised, outside of this definition, the Chief, at his discretion, may accept or reject the question of any university's accreditation.

Payment shall be made monthly.

Officers without college or university degrees shall be paid Educational Incentive Pay for college hours earned at the following rates:

65 to 94 college hours	\$60.00 per month
95 to 124 college hours	\$90.00 per month
125 to 154 college hours	\$120.00 per month
155 to 184 college hours	\$150.00 per month
185 to 214 college hours	\$180.00 per month
215 to 229 college hours	\$210.00 per month
230 or more college hours	\$240.00 per month

Officers with college or university degrees shall be paid Educational Incentive pay at the following rates:

Associates Degree	\$215.00 per month		
Bachelor's Degree	\$315.00 per month		
Master's Degree	\$335.00 per month		
Doctors or Equivalent	\$350.00 per month		

Nothing in this article should be construed to entitle an Officer to receive educational incentive pay pursuant to this section for both college hours and a college degree.

### Section 2. Law Enforcement Related Courses.

A. Officers graduating from the Academy shall be required to have a minimum of thirty-one (31) college accredited hours before the expiration of one year after the completion of the thirty (30) week period following graduation from the Academy. The City shall ensure that,

upon entrance to the Academy, each cadet is informed in writing of this requirement, the cadet acknowledges his understanding in writing, and the writing is made a permanent part of his file.

B. Officers who fail to complete the above requirement(s) shall not be allowed to move into the "Class B" Police Officer pay status until the requirements are met. Officers shall be required to show proof of achieving the above required college hours prior to being moved into "Class B" Police Officer pay status. Officers who have all the college accredited hours required by this section shall not be required to meet the additional standards outlined above.

Officers shall be entitled to receive reimbursement for tuition, fees, on-campus parking and the price of required text(s) at a college or university for course hours in an accredited degree program. Reimbursement shall be made in accordance with the following schedule:

Course Grade	Amount of Reimbursement
A	100%
В	90%
С	80%
D or F	0%

- C. Officers who are enrolled in an accredited college or university and who under an approved college or university master's or doctorate degree plan are required to complete any course that is not assigned a grade, will upon successful completion of the course, be reimbursed by the City at 100% upon presentation of documentation of payment to the registrar's office of the college or university at the end of the semester of the required course.
- D. The City shall reimburse bargaining unit employees for tuition under the following circumstances:
  - 1. The tuition rate will not exceed the tuition rate charged by the UTSA for a similar degree program, but if UTSA does not have a similar degree program the rate will not exceed the tuition rate charged by the nearest Texas public state school with a similar degree program; and 53
  - 2 Such reimbursement for tuition and fees shall only be paid at Texas residency rates; and
  - 3. City tuition reimbursement is secondary to other sources such as grants or scholarships.

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<sup>&</sup>lt;sup>53</sup> A33, Sec. 2 (D)(1) – SAPOA <u>proposal</u> 2-26-2021

## ARTICLE 38 Miscellaneous Provisions

## Section I. Service Handgun/Badge Upon Retirement.

Each Officer who retires from the force shall be given their service handgun and badge at no charge.

### Section 2. Service-Connected Death.

In the event of an Officer's death in the course and scope of employment, over and above the City's life insurance/accidental insurance benefit, the City shall pay funeral expenses of \$10,000 payable within 10 calendar days to the Officer's beneficiary as designated in the City's life insurance program and provide at no cost the Officer's badge and service handgun to that beneficiary if otherwise legal.

## **Section 3. Special Assignments.**

- A. Except as provided elsewhere in this Agreement, the City shall have a right to place Officers on special assignment. Officers placed on special assignment on an involuntary basis shall work the assignment for a maximum of one hundred eighty (180) sixty (60) calendar days. At the end of the one hundred eighty (180) sixty (60) calendar day period, the Chief of Police may extend the term, based on extenuating circumstances. Officers whose assignment exceeds the original sixty (60) calendar day period shall relinquish their seniority and relief days from the original, permanent assigned unit. Officers who object to the continuation of the special assignment after the one hundred eighty (180) sixty (60) calendar day period shall be returned to their assigned unit. Officers returning to an original unit from a special assignment that exceeded the sixty (60) calendar day limit must re-bid on relief days, based on the next available opening (no six (6) month waiting period unless the special assignment goes beyond one hundred and eighty (180) calendar days, in which case the officer will be required to wait the six (6) months).
- B. Officers placed on special assignment on a voluntary basis may work the assignment for a maximum of one hundred and eighty (180) calendar days. Officers whose assignment exceeds the original one hundred and eighty (180) calendar day period shall relinquish their seniority and relief days from their original, permanent assigned unit. Officers returning to their original unit from a special assignment that exceeded one hundred and eighty calendar days must re-bid on relief days, based on the next available opening.

## **Section 4.** Permanent Personnel File.

The City shall be required to maintain a permanent personnel file on each Officer, pursuant to the requirements as outlined in Section 143.089, Local Government Code or its successor in

<sup>&</sup>lt;sup>54</sup> A38, Sec. 3 Special Assignments – COSA <u>proposal</u> 2-26-2021 / SAPOA wishes to <u>discuss</u> COSA proposal 3-5-2021

function.

## Section 5. Exception to Open Records Act (Officer File Photo).

Contained within each Officer's permanent personnel file shall be a photograph(s) as defined by No. 474, Article 2.12 of the Code of Criminal Procedure. The same shall not be released to the public or the press where the same would endanger the life or the physical safety of the officer unless:

- A. The Officer is under indictment or charged by an offense by information; or
- B. The Officer is a party in a Civil Service hearing or a case in arbitration; or
- C. The photograph is introduced as evidence in a judicial proceeding.

### Section 6. Pay Stub.

The City will utilize electronic or paper payroll check stubs with current data showing accrued balances of sick leave, bonus leave, accrued holidays, compensatory time, vacation time, and military leave.

## **Section 7.** Family Assistance Officer.

The Chief shall appoint a Family Assistance Officer. The Family Assistance Officer will be relieved of regular duty on a case-by-case basis in order to assist the families of officers who die or are seriously injured while on active duty, or suffer a catastrophic illness in making appropriate arrangements and completing necessary paperwork.

## Section 8. Reimbursement for Lost, Damaged, or Stolen Items.

The Chief shall have discretion to reimburse any Officer, the replacement value (up to a maximum of \$250.00), for any personal item lost, damaged, or stolen (including clothing) as a result of onduty employment. The Chief shall also have the discretion to reimburse any Officer—the replacement value, equivalent to the specifications for a Department approved personal rifle or shotgun as determined by the Firearms Proficiency Control Officer or Training Academy Commander's designee, for a personal rifle or shotgun lost, damaged, or stolen as a result of onduty employment. The Chief's decision in this regard shall be final and is not subject to grievance and/or arbitration.

### Section 9. Physical Fitness.

The City and the Association are committed to a healthy, physically fit and well-trained police department. In demonstrating this commitment, Officers who participate and meet standards as established in a police academy sponsored wellness program or who score the standards set out in this section during annual in-service training shall be awarded the administrative leave

incentives outlined herein.

During October of each year preceding the starting date of each yearly in-service training, the Chief and the President of the Association shall appoint three (3) members each (six total) to a physical fitness panel. It will be the sole responsibility of this panel to set point values, time limits, and the necessary requirements for the wellness program and for achieving incentives for the next year's in-service. The Chief and Association shall provide written notice of their appointees to the physical fitness panel at least thirty (30) calendar days before the panel is scheduled to meet. Through the use of both the most current Physical Fitness Standard number scale criteria, and the previous year testing results, the panel will set standards which best create a performance curve of the Department and provide incentives based on performance according to sex and age groupings. The panel shall reach an agreement on all items relating to point values, time limits, or necessary requirements, and all recommendations shall be forwarded to the Chief. The Chief can veto any recommendation and return the recommendation to the panel for re-examination. The Training Academy Commander shall act as the non-voting moderator and will be responsible to ensure the panel meets at the required stated time.

## A. Academy Sponsored Wellness Program.

Officers may elect to participate in a personalized wellness program individually designed for the Officer by the fitness panel. Officers participating in personalized programs will have administrative leave incentives set by fitness panel. Personalized incentives will be awarded in accordance with personalized goals and objectives met by the individual officer involved. The Chief or designee will approve all panel approved individual wellness programs and award incentives of eight (8) to forty (40) hours in accordance with this Agreement and the success of the individual Officer in achievement of the designed goals and objectives which will be measured by the fitness test.

## B. In-Service Physical Standards.

A PT staff member will monitor each Officer's sit-ups, push-ups, vertical jump, mile and one-half run, dummy drag and stationary or bicycle ride. The sit-ups, push-ups, weight control and vertical jump will be monitored on a one-on-one basis.

## C. Incentives.

Officers who successfully complete any combination of exercises and who score within the pre-designated total point range will receive the corresponding physical fitness incentive of sixteen (16) to forty (40) administrative leave hours.

Officers who participate in the physical fitness program for three consecutive years during inservice and who do not receive an incentive shall receive one-day administrative leave for their participating in the program. For purposes of this section the physical fitness panel shall define participation for each year.

Officers may select five of the six events (which may include but shall not be limited to, sit ups, push ups, vertical jump, mile and one half run and/or walk, stationary or bicycle ride, and sprint, wall, drag) in which to participate in to achieve their goal. Weight loss is not an event but will be counted towards the Officers overall score. No points will be subtracted for not participating in any individual event.

Officers on light duty, that have a documented injury will need to provide the Academy PT staff with a copy of their 172-form in order to reschedule a make-up with the PT staff. Officers who cannot participate in the physical fitness portion of their scheduled in-service due to a documented injury will have sixty (60) calendar days from the date they return to full duty in order to complete this portion of their in-service and qualify for the administrative leave hours.

Officers who attend their scheduled in-service but miss participating in the physical fitness portion due to Departmental business or other emergency, but not a documented injury, have thirty (30) calendar days from their scheduled in-service date to reschedule a make-up with the PT staff.

The award of administrative leave or lack thereof shall not be the grounds for a grievance. Decision by Academy staff as to the actual individual completion times or individual completion of exercise requirements shall be final. This leave shall be awarded the second pay period of the following quarter in which the Officer earned the administrative leave hours and the Officer has 365 calendar days from the date posted to the individual Officer's leave bank to use it.

## **Section 10.** Preemption

It is expressly understood and agreed that all provisions of this Article shall preempt any statute, Executive Order, local ordinance, City policy or rule, which is in conflict with or is inconsistent with this Agreement and the procedures developed hereunder, including for example and not by way of limitation, any contrary provisions of Chapters 141, 142, and 143 of the Texas Local Government Code, including but not limited to Sections 141.032 and 142.0015 and Sections 143.041 through 143.047 and 143.089.

# Section 11. Preemption of Civil Service Chapter 143 Claims for Public Safety and Police Personnel.

The City and the Association agree that officers covered by the Meet & Confer Agreement between the City of San Antonio and San Antonio Park Police Officers Association, including but not limited to Park Police, Airport Police, Code Abatement Officers and Deputy City Marshals, are not members of the bargaining unit covered by and have no rights under the Agreement between the City of San Antonio and the San Antonio Police Officers Association. The parties agree that members of the bargaining unit covered by the Meet & Confer Agreement between the City of San Antonio and the San Antonio Park Police Officers Association and/or San Antonio Airport Police Officers Association are not officers who have been hired in substantial compliance with Chapter 143 pertaining to civil service police positions, and are not officers who must have knowledge of work within the San Antonio

Police Department in their duties, jobs, and responsibilities. This provision preempts any contrary provisions of Chapter 143 which might otherwise be applicable to such officers covered by the Meet & Confer Agreement between the City of San Antonio and San Antonio Park Police Officers Association, and/or San Antonio Airport Police Officers Association and preempts any rights, privileges, or benefits to such officers which might arguably result from the creation of additional civil service positions. <sup>55</sup>

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<sup>&</sup>lt;sup>55</sup> A38, Sec. 11 Preemption of Civil Service Chapter 143 Claims for Public Safety and Police Personnel – COSA proposal 2-26-2021 / AGREED

### **ARTICLE 39** Civilianization

### Section 1.

Notwithstanding any provision in this agreement to the contrary (if any), and without altering sals bor any other provision of this Agreement, the City was is authorized to civilianize the following positions or units, and any civilianization action heretofore taken by the City is hereby continues to be ratified and approved by the Association.

- 1. Court Liaison
- 2. **Facilities Management**
- 3. Communications
- 4. Research and Planning
- 5. Municipal Integrity
- Crime Scene Unit 6.
- 7. UCR/Report Review
- 8. Youth Services
- 9. Vehicle Storage

In addition to the listed functions above, the administrative services positions titled Service and Support Office as reflected on the attached Organizational Chart, shall be a civilian position irrespective of the fact that portions of the job description carried out by that position have previously been the responsibility of sworn civil service personnel. It is understood and agreed, however, that the civilian position shall at no time supervise or command sworn civil service personnel.

### [COSA proposal]

The City agrees to maintain staffing levels in the Crime Scene Unit at no less than 30% sworr officers, not to include supervisors, it being understood that any reduction in the percentage of sworn officers shall be by attrition or enhanced authorized staffing only. It is understood and agreed, however, that when the Chief implements the UED program under Article 11, this percentage may be reduced pro-rata with the transfer of personnel to other assignments in accordance with Article 11 Section 7. The Chief will meet with Association representatives from time to time to make sure that implementation protocols and procedures for patrol and dispatch sufficiently provide for the safety of officers, the safety of civilian employees and the public generally, and effective prosecution. The lead incident commander of the shooting investigation team shall be a sworn. Officer.

Officers and Detectives assigned to Vehicle Storage, Communications and Youth Services at the time of the City Council approval of this Agreement who also receive shift differential pay will retain the shift differential pay if they are involuntarily reassigned due to civilianization of the units until they voluntarily transfer to a job assignment without shift differential. 56

The City shall notify the Association President at least ninety (90) calendar days prior to eivilianization of Vehicle Storage, Communications, Youth Services and jobs traditionally performed by sworn officers and shall consult, and reach mutual agreement, with the Association President over the effects of such civilianization. The City agrees the effect of civilianization shall not reduce the authorized number of sworn Police Officers, Detectives or Supervisors. 57

## [SAPOA counter]

The City agrees to maintain staffing levels in the Crime Scene Unit at no less than 30% sworn officers, not to include supervisors, it being understood that any reduction in the percentage of sworn officers shall be by attrition or enhanced authorized staffing only. It is understood and agreed, however, that when the Chief implements the UED program under Article 11, this percentage may be reduced pro-rata with the transfer of personnel to other assignments in accordance with Article 11 Section 7. The Chief will meet with Association representatives from time to make sure that implementation protocols and procedures for patrol and dispatch sufficiently provide for the safety of officers, the safety of civilian employees and the public generally, and effective prosecution. The staffing levels in the Crime Scene Unit will be in accordance with Article 11, Section 7, with the exception of supervisors. The Crime Scene Unit shall retain sworn supervisors. The lead incident commander of the shooting investigation team shall be a sworn Officer.

Officers and Detectives assigned to Vehicle Storage, Communications and Youth Services at the time of the City Council approval of this Agreement who also receive shift differential pay will retain the shift differential pay if they are involuntarily reassigned due to civilianization of the units until they voluntarily transfer to a job assignment without shift differential.

The City shall notify the Association President at least ninety (90) calendar days prior to civilianization of Vehicle Storage, Communications, Youth Services and jobs traditionally performed by sworn officers and shall consult, and reach mutual agreement, with the Association President over the effects of such civilianization. The City agrees the effect of civilianization shall not reduce the authorized number of sworn Police Officers, Detectives or Supervisors.

#### Section 2.

The City of San Antonio may additionally utilize civilians in any position created in the future,

<sup>&</sup>lt;sup>56</sup> A34, Sec. 1 – Question are there any officers to whom this still applies

<sup>&</sup>lt;sup>57</sup> A34, Sec. 1 – COSA proposal 2-26-2021

that does not require the individual to have and exercise the power of arrest under the standards for distinguishing between classified and civilian positions set forth in Lee v. City of Houston, or any later decision by the Supreme Court of Texas.

#### Section 3. **Preemption**

It is expressly understood and agreed that all provisions of this Article shall preempt any statute, Executive Order, local ordinance, City policy or rule, which is in conflict with or is inconsistent with this Agreement and the procedures developed hereunder, including for example and not by way of limitation, any contrary provisions of Chapters 141, 142, and 143 of the Texas Local Government Code, including but not limited to Sections 143.001 through

